

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

Friday, March 30, 1979

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

Prayer by the Reverend Douglas Livingston of the Amherst Aurora United Church of Christ, Bangor.

Reverend LIVINGSTON: Let us pray! Father God, we thank you very much for the blessings that you have given to us this day. We thank you for the opportunity to be gathered here together. We pray that you would be with these people as they conduct their business this afternoon, and may they know that your business is their business. We pray that they would look to you for guidance and inspiration as they seek to serve the people of the State of Maine. We pray, O Father, that we may never forget that you are with us now and always. In Jesus name we pray. Amen.

The journal of yesterday was read and approved.

Bill "An Act Concerning Health Services in Rural and Underserved Areas" (S. P. 473) (L. D. 1414)

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

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

Bill "An Act to Amend Financial Institutions and Credit Union Laws" (S. P. 450) (L. D. 1413)

Bill "An Act to Amend the Maine Automobile Insurance Cancellation Control Act" (S. P. 463) (L. D. 1429)

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

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

Bill "An Act Relating to the Reporting of Illegal Use and Trafficking of Drugs in Maine Schools" (S. P. 469) (L. D. 1417)

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

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

Bill "An Act to Encourage Location of Certain Coastal Heavy Industry in the Portland, South Portland and Upper Penobscot Bay Area" (S. P. 471) (L. D. 1419)

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

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

Bill "An Act Relating to Appointment of Bail Commissioners and to Lessen the Burden upon Sheriffs and the Court for "Prompt Bail Review" (S. P. 470) (L. D. 1418)

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

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

Bill "An Act to Rename the Bureau of Consumer Protection to be the Bureau of Consumer Credit Protection" (S. P. 460) (L. D. 1420)

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

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

Bill "An Act to Establish a Higher Education Tax Deferred Savings Plan and Other Tax Benefits for Parents and Students" (S. P. 461) (L. D. 1421)

Bill "An Act to Eliminate the Termination

Provisions of the 'Food Products' Sales Tax Exemption" (S. P. 462) (L. D. 1428)

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

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

Reports of Committees Ought Not to Pass

Report of the Committee on Election Laws reporting "Ought Not to Pass" on Bill "An Act to Permit Independents to Vote in Party Primaries" (S. P. 245) (L. D. 694)

Was placed in the Legislative Files without further action pursuant to Joint Rule 22 in concurrence.

Leave to Withdraw

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Create a Tourism Advisory Council to Study Maine's Tourism Industry" (S. P. 314) (L. D. 944)

Report of the Committee on Fisheries and Wildlife reporting "Leave to Withdraw" on Bill "An Act to Require Traps in the Unorganized territories to be Visited Once Every 24 Hours" (S. P. 200) (L. D. 496)

Came from the Senate with the Reports read and accepted.

In the House, the reports were read and accepted in concurrence.

Non-Concurrent Matter

Bill "An Act Concerning Warning Signs Posted at Certain Railroad Grade Crossings under the Public Utilities Commission" (H. P. 1133) (L. D. 1401) which was referred to the Committee on Public Utilities in the House on March 21, 1979.

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

In the House: On motion of Mr. Davies of Orono, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Relating to the Activities of Persons in Public Employment" (H. P. 1146) (L. D. 1408) which was referred to the Committee on Labor in the House on March 22, 1979.

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

In the House: On motion of Mrs. Kany of Waterville, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Amend the Split Sentencing Provisions of the Criminal Code" (H. P. 1130) (L. D. 1399) which was referred to the Joint Select Committee on Correctional Institutions in the House on March 22, 1979.

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

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

Non-Concurrent Matter

Bill "An Act Relating to Municipal Recreation Grants" (H. P. 1120) (L. D. 1392) which was referred to the Committee on Appropriations and Financial Affairs in the House on March 21, 1979.

Came from the Senate referred to the Committee on Energy and Natural Resources in non-concurrence.

In the House: On motion of Mr. Blodgett of Waldoboro, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Clarify Transfers from County Jails to the Correctional Facilities" (H. P. 1123) (L. D. 1393) which was referred to the Joint Select Committee on Correctional Institutions in the House on March 21, 1979.

Came from the Senate referred to the Com-

mittee on Health and Institutional Services in non-concurrence.

In the House: On motion of Mrs. Prescott of Hampden, the House voted to insist.

Non-Concurrent Matter Later Today Assigned

Bill "An Act to Permit the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances" (H. P. 18) (L. D. 35) on which Report "B" "Ought to Pass" as amended by Committee Amendment "B" (H-118) of the Committee on Judiciary was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-118) in the House on March 22, 1979.

Came from the Senate with Report "A" "Ought to Pass" as amended by Committee Amendment "A" (H-117) of the Committee on Judiciary read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-67) in non-concurrence.

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

Mr. HOBBS: Mr. Speaker, I move that the House adhere.

Whereupon, on motion of Mr. Gray of Rockland, tabled pending the motion of Mr. Hobbins of Saco to adhere and later today assigned.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Purposes for the Meeting of the First Regular Session of the Legislature during December to Election of Officers and to Provide for Senate Apportionment in 1983 (H. P. 288) (L. D. 348) which was Finally Passed in the House on March 22, 1979.

Came from the Senate, Failing of Final Passage in non-concurrence.

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

Petitions, Bills and Resolves Requiring Reference

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

Appropriations and Financial Affairs

Bill "An Act to Allocate Moneys for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1980 and June 30, 1981" (Emergency) (H. P. 1265) (Presented by Mr. Violette of Van Buren)

Bill "An Act to Allocate Money from the Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1980, and June 30, 1981" (Emergency) (H. P. 1266) (Presented by Mr. Connolly of Portland)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act Relating to Education in Nutrition" (H. P. 1267) (Presented by Mr. Michael of Auburn) (Cosponsor: Mrs. Gowen of Standish)

Bill "An Act to Provide for the Withdrawal of a Unit from a School Administrative District" (H. P. 1268) (Presented by Mrs. Post of Owl's Head)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act to Establish a Maine Labor Relations Law" (H. P. 1269) (Presented by Mr. Michael of Auburn) (Cosponsors: Mr. Soulas of Bangor, Mr. Churchill of Orland, and Mr. Wyman of Pittsfield)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act to Impose a Tax on Timber at

Harvest to Provide for Reimbursement to Communities for Loss from the Tree Growth Tax Law" (H. P. 1270) (Presented by Mrs. Post of Owl's Head)

(Ordered Printed)

Sent up for concurrence.

Orders

On Motion of Mr. Tuttle of Sanford, the following Joint Resolution: (H. P. 1271) (Cosponsors: Senator Minkowsky of Androscoggin, Mrs. Mitchell of Vassalboro and Mr. Garsoe of Cumberland)

JOINT RESOLUTION URGING VOLUNTARY CARDIOPULMONARY RESUSCITATION AND BASIC LIFE SUPPORT EDUCATION IN SECONDARY SCHOOLS

WHEREAS, it has been estimated that about 1,000,000 persons in the United States experience acute myocardial infarction each year; and

WHEREAS, more than 650,000 die annually of ischemic heart disease, and about 350,000 of these deaths occur outside the hospital usually within 2 hours after the onset of symptoms; and

WHEREAS, sudden death from heart attack is the most important medical emergency today, however a large number of these deaths could be prevented by prompt, appropriate treatment; and

WHEREAS, education to increase awareness of the risk factors that may lead to heart attack, early warning signs and recognition of heart attack, and what to do in a cardiopulmonary emergency is of the utmost importance; now, therefore, be it

RESOLVED: That we, the members of the Senate and House of Representatives of the 109th Legislature now assembled respectfully urge the Commissioners of the Educational and Cultural Services and Human Services to do everything within their power to provide a voluntary elective course in cardiopulmonary resuscitation and basic life support pursuant to American Red Cross standards in all secondary schools of the State of Maine; and be it further

RESOLVED: That duly attested copies of this resolution be transmitted forthwith to the Honorable Joseph E. Brennan, Governor of the State of Maine, the Honorable Sawin H. Millett, Jr., Commissioner of Educational and Cultural Services and the Honorable Michael R. Petit, Commissioner of Human Services.

The Resolution was read.

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

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: Cardiopulmonary resuscitation, or more simply CPR, is a long word for a method of saving lives. Specifically, CPR is a method of providing artificial circulation and breathing to a person whose heart and lungs are no longer functioning as the result of a heart attack, shock, drowning or a variety of other causes. The resolution that I present today would provide that all secondary schools offer a voluntary, elective course in CPR and any student should be eligible for this instruction.

A number of schools in all parts of the state are already offering CPR. In 1978, the Red Cross reported that in just its programs alone, 1,552 students has successfully completed a CPR course in a school setting.

The Maine Heart Association has identified more than 30 schools that are presently providing school-based CPR programs. These programs provide a solid beginning to the effort to give more of our citizens the opportunity to receive CPR training.

The Heart Association has identified as a goal the implementation of basic life support or heart saver training in the curriculum by 1981. Most cardiac fatalities and other emergencies requiring the provision for cardiopulmonary

resuscitation occur outside of the hospitals and other health care facilities. They occur in our homes, our work places and a variety of other places in our communities. When an emergency occurs, an immediate response is often the difference between life and death or a serious disability. Many thousand fatalities which occur each year would be prevented if more citizens were trained in the basic life supporting techniques, which often must be provided within four to six minutes after the onset of the emergency.

I have been a CPR instructor for seven years. I have also received EMP training and have serviced as a full-time fireman. I can speak from personal experience of the benefits of CPR training. The ability not only to provide direct life-support care but also to recognize the early symptoms and warning signs has been invaluable in a number of different situations. Insuring that our secondary school students have at least the opportunity to receive this instruction would, I am convinced, result in a substantial increase in a number of people to provide emergency care.

Thereupon, the Resolution was adopted and sent up for concurrence.

House Reports of Committees Ought Not to Pass

Mrs. Bachrach from the Committee on State Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Legislature's Power to Change Measures Adopted by the People or to Reenact Measures Suspended by the People (H. P. 383) (L. D. 490) reporting "Ought Not to Pass"

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

Leave to Withdraw

Mr. Hickey from the Committee on Aging, Retirement and Veterans on Bill "An Act to Permit Retirement with Full Benefits for any Member of the Maine State Retirement System when the Sum of the Member's Age Plus the Member's years of Service Equals 85" (H. P. 582) (L. D. 732) reporting "Leave to Withdraw"

Mr. Fillmore from the Committee on Labor on Bill "An Act to Narrow the Exemption Allowing Certain Persons to Voluntarily Leave their Job and Still Qualify for Unemployment Benefits" (H. P. 342) (L. D. 441) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Mr. Barry from the Committee on State Government on RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Lands in the Town of Atkinson, Piscataquis County and St. John Plantation in Aroostook County and the Unorganized Territory (H. P. 529) (L. D. 667) reporting "Ought to Pass" in New Draft (H. P. 1264) (L. D. 1448)

Report was read and accepted, the New Draft read once and assigned for its second reading Monday, April 2.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Lower the Daily Limit for Smelt Dealers to 4 Quarts" (H. P. 272) (L. D. 346)

Report was signed by the following members:

Messrs. REDMOND of Somerset
PIERCE of Kennebec

— of the Senate.

Messrs. TOZIER of Unity
MacEACHERN of Lincoln
PETERSON of Caribou
VOSE of Eastport
MASTERMAN of Milo

JACQUES of Waterville
DOW of West Gardiner
CHURCHILL of Orland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members
Mr. USHER of Cumberland

— of the Senate.

Mr. PAUL of Sanford

— of the House.

Reports were read.

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

Mr. DOW: Mr. Speaker, I move the Minority "Ought to Pass" report so it will be in a position at second reading for an amendment which one of the committee members wants to add to it.

Thereupon on motion of Mr. Dow of West Gardiner, the Minority "Ought to Pass" Report was accepted, the bill read once and assigned for second reading the next legislative day.

Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-141) on Bill "An Act to Provide Continued Education Benefits for Veterans' Widows after Remarriage" (H. P. 553) (L. D. 700)

Report was signed by the following members:

Messrs. DELLERT of Gardiner
HANSON of Kennebunkport
Mrs. NELSON of Portland
Messrs. THERIAULT of Rumford
HICKEY of Augusta
LOWE of Winterport
STUDLEY of Berwick

— of the House.

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

Report was signed by the following members:

Messrs. SILVERMAN of Washington
TEAGUE of Somerset
LOVELL of York

— Of the Senate.

Mr. CHURCHILL of Orland
PAUL of Sanford
REEVES of Newport

— Of the House.

Reports were read.

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

Mrs. NELSON: Mr. Speaker, I move that we accept the Majority "Ought to Pass" Report and wish to speak on it.

Men and Women of the House, it is a very simple bill, it simply states that if a woman is widowed or divorced from a veteran, that she should not be denied the right to further education as long as she can finish her education within ten years.

Right now there is \$75,000 in the budget for war orphans and widows. The on-going program that this bill addresses has no additional money. Only two people are affected by it presently so there is no more money involved.

It says this, if the woman is married to a veteran and the veteran dies, she is entitled to educational benefits for ten years. That is not to say that she is going to school for ten years, but if she had a small child and waited for that child to grow, at least to get to the first grade before she continued her education, she would be entitled.

Now, it seems strange that in the law as written now, the children have these benefits and the widow does not.

In the 108th Legislature, we passed a bill dealing with displaced homemakers. It said that if a woman is widowed in her middle years and must go to work, that there would be a program available for her to be trained and placed in a job. The law says now, it is okay for every-

body except for a widow of a veteran. You can do it on your own and your children go to school but there is no money here for you. It seems quite unfair, and because of that, we have a majority "ought to pass" with no fiscal note. It really is a bill dealing with policy. Should the widow be entitled to the same benefits as her children?

When you vote, I hope you will vote for the Majority "Ought to Pass" Report.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I only have a question about the last two words in the title. It said that they would get these benefits after remarriage. What is the new husband's responsibility for the lady anyway?

The SPEAKER: The gentleman from New Gloucester, Mr. Cunningham, has posed a question through the Chair to any member who cares to answer.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill and I believe the gentlewoman from Portland has done an excellent job on it. I will run through very briefly the situation that has to occur it is not a likely situation to happen. It has happened a couple of times. There was a case in the Maine court dealing with a Civil War widow. She has to be married to a man who was killed in active combat or active service, she has to remarry. The second husband has to be killed in active combat or active service or he may be fully incapacitated. Under present federal law, she has the choice of choosing whether she will take the benefits of the first husband or the second. Under Maine law, she is not allowed this choice, she must take the benefits of the second husband. This would make it the same as federal. If the second husband is still alive and not fully incapacitated, there is no question anyway, she is his problem and she cannot go back to the benefits of the prior husband.

Thereupon, on the motion of Mrs. Nelson of Portland, the Majority "Ought to Pass" Report was accepted and the bill read once.

Committee Amendment "A" (H-141) was read by the Clerk and adopted and the bill assigned for second reading the next legislative day.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Establish a Uniform Opening Day for Deer Hunting." (H. P. 277) (L. D. 352)

Report was signed by the following members:

Messrs. USHER of Cumberland
REDMOND of Somerset
PIERCE of Kennebec

— of the Senate.

Messrs. MacEACHERN of Lincoln
TOZIER of Unity
PETERSON of Caribou
VOSE of Eastport
DOW of West Gardiner
CHURCHILL of Orland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Messrs. MASTERMAN of Milo
JACQUES of Waterville
PAUL of Sanford

— of the House.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: I think after we have been here awhile, we recognize what is going to happen with bills. I think because it is Friday

afternoon and I have spoken with our chairman about this, and the reason I am making the motion, I did have from 87 towns, 1,029 people who were interested in clearing up the problem of have a great number of people in a concentrated areas. That is the reason for the bill. But this afternoon, all I am going to ask is that we accept the Minority "Ought to Pass" report and ask for a roll call.

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

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: I hope you vote against the "Ought to Pass" motion. Probably, as you are all aware now, the department has the right within a framework to set the date for the hunting season. I think that it is best left up to the department to manage the deer herd, so, I urge you to vote against the motion "ought to pass".

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 will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I really haven't made up my mind on this bill yet myself. I do see some merit in that there is a great concentration of hunters in a two-week period in the northern section of the state since the deer season is open and in the southern zone it isn't. I would just like to hear some rationale why this is not a good bill, if somebody in the committee could let me know.

The Speaker: A roll call has been ordered. The pending question is on the motion of the gentleman from Milo, Mr. Masterman, that the House accept the Minority "Ought to Pass" Report. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Bordeaux, Boudreau, Bowden, Brown, K. L.; Brown, K. C.; Carrier, Carter, D.; Carter, F. Conary, Cunningham, Davis, Dexter, Doukas, Dudley, Dutremble, L.; Fillmore, Gavett, Gray, Hanson, Hobbins, Jackson, Jacques, E., Jacques, P.; Kany, Kelleher, Kiesman, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, Mahany, Masterman, Maxwell, McKean, Michael, Nadeau, Paul, Peltier, Rollins, Sewall, Smith, Strout, Studley, Tarbell, Tuttle, Wentworth, Whittmore

NAY — Aloupis, Bachrach, Baker, Barry, Berry, Berube, Blodgett, Brennerman, Brodeur, Brown, D.; Bunker, Call, Carroll, Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Damren, Davies, Dellert, Diamond, Dow, Drinkwater, Dubremble, D.; Fenslon, Fowlie, Gould, Gowen, Gwadosky, Hall, Hickey, Higgins, Howe, Huber, Hunter, Hutchings, Joyce, Kane, Laffin, Lancaster, LaPlante, Lund, MacBride, MacEachern, Masterton, Matthews, McHenry, McMahon, McPherson, McSweeney, Mitchell, Morton, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, Payne, Peterson, Post, Prescott, Reeves, J.; Rolde, Roope, Sherburne, Simon, Small, Soulas, Stetson, Stover, Theriault, Tierney, Torrey, Tozier, Twitchell, Vincent, Violette, Vose, Wood, Wyman

ABSENT — Beaulieu, Benoit, Birt, Branigan, Brown, A.; Elias, Garsoe, Gillis, Hughes, Immonen, Jalbert, Marshall, A.; Martin, A.; Pearson, Reeves, P.; Silsby, Sprowl

Yes, 51; No, 82; Absent, 17.

The SPEAKER: Fifty-one having voted in the affirmative and eighty-two in the negative, with seventeen being absent, the motion does

not prevail.

Thereupon, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Consent Calendar

First Day

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

(H. P. 549) (L. D. 680) Bill "An Act to Clarify the Rule-making Procedure of the Commissioner of Public Safety" Committee on State Government reporting "Ought to Pass"

On the objection of Mrs. Kany of Waterville, was removed from the Consent Calendar.

Thereupon, the Report was accepted, the bill read once and assigned for second reading the next legislative day.

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

(H. P. 476) (L. D. 593) Bill "An Act to Amend the Membership and the Legislative Mandate of the Capital Planning Commission" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-147)

(S. P. 152) (L. D. 329) Bill "An Act Concerning Telecommunications for the Deaf" (Emergency) Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-61)

(S. P. 112) (L. D. 215) Bill "An Act Authorizing the Public Utilities Commission to use a Modified Procedure in Uncontested Cases Relating to the Assignment and Transfer Contract Carrier Permits" Committee on Public Utilities reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 2, under the 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:

(S. P. 122) (L. D. 231) Bill "An Act Concerning Dismissal of Municipal Police Chiefs"

(H. P. 576) (L. D. 724) Bill "An Act to Provide for Marking of the Trans-Maine Highway" (C. "A" H-140)

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 Paper was passed to be engrossed and sent up for concurrence.

Amended Bill

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

Was 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.

Constitutional Amendment

Finally Passed

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Remove the Literacy Requirements for Eligibility to Vote (H. P. 430) (L. D. 547)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being a Constitutional Amendment and two-thirds vote of the House being necessary, a total was taken. 110 voted in favor of same and 17 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

Passed to be Enacted

An Act to Provide Interpreter Service for the

Hearing Impaired (S. P. 80) (L. D. 157) (S. "A" S-49 to C. "A" S-44)

An Act to Amend the Geologists and Soil Scientists Certification Act (S. P. 136) (L. D. 313) (C. "A" S-48)

An Act to Establish Registration of Electrologists (H. P. 48) (L. D. 57) (C. "A" H-122)

An Act to Centralize the Administration of Uniform Reciprocal Enforcement of Support Act Petitions Filed in the State of Maine by the Official Child Support Agency of Another State (H. P. 643) (L. D. 796)

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

Orders of the Day

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

Bill, "An Act to Permit Signed Statements of Psychologists and Chiropractors to be Admitted into Evidence Before the Workers' Compensation Board" (H. P. 377) (L. D. 540)

Tabled—March 28, 1979 by Mr. Wyman of Pittsfield.

Pending—Passage to be Engrossed.

On motion of Mr. Hobbins of Saco, retabled pending passage to be engrossed and assigned for Monday, April 2.

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

SENATE DIVIDED REPORT — Majority (7) "Ought to Pass" — Minority (6) "Ought to Pass" as Amended by Committee Amendment "A" (S-55) — Committee on Labor on Bill, "An Act to Encourage Retraining of Handicapped Workers" (S. P. 164) (L. D. 368)

— In Senate, Minority "Ought to Pass" as Amended by Committee Amendment "A" (S-55) Report Accepted and the bill Passed to be Engrossed as Amended.

Tabled — March 29, 1979 by Mrs. Mitchell of Vassalboro.

Pending — Motion of Mr. Tuttle of Sanford to Accept the Majority "Ought to Pass" Report.

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

Mr. TARBELL: Mr. Speaker, could I have an explanation of what this bill is intended to do? It has got three sections to it; I assume it changes the current law. Could I have an explanation as to what the current law is and how this bill would change it and why these three provisions are necessary?

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

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: In response to that question, first of all, I would say to Representative Tarbell that I fully intended to explain this legislative, given an opportunity.

L. D. 368, sponsored by Senator Pray of Penobscot, would alter the current language concerning the retraining of handicapped workers.

The current language reads, as you will see in the bill before you, that whenever, because of the nature of such injury or the subsequent condition of the employee following such injury appears that vocational or educational rehabilitation—and this is the important part to note in the bill—the present language in the statute read "Is necessary and desirable to restore the injured employee to gainful employment."

Now, the court, I don't know exactly what court it was, I believe it was the Superior Court, in defining this particular language in the law, the result has been that no employee has had the opportunity to be successful in an effort to get assistance for retraining since the court's ruling. I cannot enunciate for you in detail all of the court's rationale behind the definition of the "necessary and desirable"

language, but as I understand it from the public hearing before our committee, the result of the court's ruling has been—and this is the important thing to note—not the language of the court's decision but the effect and impact has been that no employee, at least to my knowledge, has been successful in an application for assistance for retraining.

Senator Pray believed, and a majority of the committee that supports this legislation believes that it is extremely necessary and important that handicapped employees be given an opportunity and be assisted in retraining for gainful employment. It was the feeling of the sponsor of this legislation that adding the words "materially assist the employee in regaining the earning capacity that he possessed before his injury" would result and would have the effect of assisting employees who are handicapped.

I would just say, before I complete my explanation, that it is my very firm conviction that we must take a very sincere, meaningful interest in helping our workers who are handicapped, helping them so that they can once again become productive members of our work force, and that is the reason that I support this legislation, and I hope that explanation has satisfied the gentleman's inquiry.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Pittsfield and I have gotten a totally different version of this particular piece of legislation. The title does say "Retraining handicapped workers." However, the handicapped refers to a work-related injury. That would be why the person would be handicapped, not as though the person had a handicap, a defect.

What this bill does is, it changes the workmen's compensation law considerably in that there is in it a needs assessment. If you look on the back of the bill, it is L. D. 368, you will read that "If the Workers' Compensation Commission determines that an employee engaging in any program of vocational education or rehabilitation requires financial support." That is new to the workmen's comp law. We haven't had that determination of need before. For that reason, I would be opposed to that part of the bill.

I am also opposed to Section 2, because it changes the wording but doesn't really change the situation that the law is in presently, because the person still—every employer is very anxious to have the injured employee retrained and be able to get back to work just as quickly as possible, and I think that is clearly covered in the present law. However, the first part of the law is new and that is a change, and I support that part of the law.

Presently, the employee carrier or counsel shall serve on the employer—this also makes what the employee has to do equal to what the employer has to do, and that only seems fair that they both have to present the same kind of evidence. So, Section 1 probably is necessary and that is why I would support that.

The other two parts are not necessary, so I would hope that you would oppose the motion to accept the report that Representative Wyman is recommending.

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

Mr. TARBELL: Mr. Speaker, I appreciate the explanation of Section 2 by Representative Wyman. I really don't think he addressed Section 3, but before we do go on to Section 3, it is my understanding that there was a court case to which Representative Wyman alluded to in the Maine Supreme Court in which a fellow had lost his ring finger through some work-related injury and wanted to apply for vocational rehabilitation with a truck driving school and wanted to have the benefits paid for the school to train him to be truck driver, and apparently

he was denied the actual benefits for that. The reason was, there was no showing that there would be a job available for him once he had gone through the school and was trained to be a truck driver, that there would actually be some fruit to his education that he had received.

I guess there were some other standards that the courts set forth in that case that suggested that the workers' compensation commission take into consideration when it construes the words that are in the law now "is necessary and desirable to restore the injured employee to gainful employment." The standards they set out were tests showing the relative cost and benefits to be derived from the actual program; in other words, paying for the schooling that the individual would go through to become a truck driver, that there be some showing as to the employee's work life expectancy; in other words, you wouldn't send somebody who was extremely old to school for three or four years to do something that they might not even live long enough to do once they got out of school. Also, there should be some showing as to the ability of the individual and motivation of the individual to undertake this particular program and schooling that he would go through and some showing as to the prospects for recovering work capacity through medical rehabilitation or other means.

In other words, the court actually construed once and for all and gave the tests and the standards to the commission to use in utilizing the words in our current statute "necessary and desirable to restore the injured employee to gainful employment, and sent the case back. I don't know, I wonder if Representative Wyman knows whether or not this particular individual was able to meet those standards and what is really wrong with those standards that are in the statute now that we have got to change? Are those not reasonable standards in light of the court opinion?

If we do change the language in this particular provision, aren't we going to start all over and we have a lost a couple of years where we are now? This would really set us back and set back our vocational rehab program.

I would like an explanation as to the current law under Section 3 and how this changes current law and why we need the rationale for why we need Section 3.

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

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I know of nothing that can put people to sleep faster on a Friday afternoon than to listen to two lawyers go back and forth on a workmen's compensation bill, but I will try to answer Mr. Tarbell's question. I think before I do that, though, I ought to make one thing clear in case any of you don't know it. I don't usually speak on workmen's compensation bills because this is the way I make my living and I don't want to come at anybody with a hidden agenda here. I do handle an inordinate amount of these types of cases and I feel I have some experience on it, and I don't ever speak on them when it affects my income, but this is an issue that I know quite a bit about and I would like to at least spend a moment with you to tell you why we do need Section 3 of this bill in particular. In fact, I think it is the most important section of the bill—it is on the second page.

It all depends on whether you believe in vocational rehabilitation or not. We are all getting complaints all the time about the fact that our workmen's comp rates are going up, and one of the reasons they are going up is best typified by a case I handled this week by a fellow who lives out in Bar Mills. This guy is 46 years old, he has got an eighth grade education and has spent his whole life doing heavy, manual labor. His last

time at work, he injured both arms to such a degree, he has had surgery and he is never going to be able to go back and do heavy work again.

The insurance company tried to come and throw him off workmen's compensation and they couldn't do it, but the commission found him 75 percent disabled—not 100 percent disabled, only 75 percent disabled, but because he has looked for every job, washing dishes at Hazel Green's and every other place you can imagine, he is still going to get 100 percent workmen's compensation benefits but he is officially only 75 percent physically disabled, because his physical problem doesn't keep him from doing any kind of light work. So, now the question is, what does society do with this person? Now, I won the case, he is out there collecting Workmen's Compensation. I don't get much satisfaction out of that because I know that if he sits out there in Bar Mills for another year, he is never going to go back to work anywhere. The insurance company is just going to keep on paying and lawyers are just going to keep on charging and the system is just going to keep on going. What I want to do for that guy is to get him to school so he can get some education so he can come back and not just join the industrial carnage, which is stacked up like cord wood all around this state of people that are hurt and they can't go out and find jobs after they are hurt. All I want to do for this guy is to get him to school. First of all, let's get his reading skills up, so maybe he can do some kind of light work.

Right now, you can't even get a janitor in this state without a high school education. So, here is a chance.

Now, what this bill says is this. Because this guy is only 75 percent disabled at the present time, he can't get his full Workmen's Comp if he goes on to seek vocational rehabilitation. That third section of the bill, all it does is, say that if the commissioner approves and in this type of case the employee has the burden of proof, if the commissioner approves, and think what would materially assist him to get him back so he is at least making \$120 a week he was making before his injury, then he can go to school and get some training.

It is really up to you. By the way, it certainly is not a party bill, I am just involved because obviously the gentleman from Bangor raised a number of narrow legal questions and somebody had to answer them. So, it is really that simple. If you don't believe in vocational rehabilitation, if you just want the guy to keep on getting paid forever, go ahead, vote with Mr. Tarbell. I assume he is going to oppose this section. He will just keep on getting his money. But, if you really want to help that guy and the hundreds of other people like him and if you really do believe in vocational rehabilitation and want to give him a hand, then vote with Mr. Wyman.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: First, I will tell every body here that I am not a lawyer, so you are not going to hear another lawyer arguing on this subject.

Mr. Tierney gave a very, very nice plea, but he was not addressing the bill. There is nothing in this bill that says these people would not get vocational rehabilitation. If he remembers, he put a bill in a session or so ago that would extend it, not only for vocational rehabilitation, but also so that the person could go to any university and that bill passed and that is the way the law reads right now, that the injured worker is entitled to vocational or another kind of educational rehabilitation and this bill does not address that. That would still be in the law and I certainly support it.

What this bill says, if you will look at Section 3, it says, that if the person is getting vocational or educational rehabilitation and that person

needs financial support during the rehabilitation, that the commission can award the employee compensation for total incapacity until rehabilitation has been completed. In other words, the person would be collecting workmen's compensations in order to be educated. This puts a new wrinkle into the workmen's compensation law in that it does have a needs assessment. If a person is well-to-do, then the person conceivably couldn't get this and I would think a well-to-do person would be just as needy of this kind of rehabilitation as a poor one. If a person is poor, it says that he would not only get the education but he would get financial support. I would say that is adding something new to the Workmen's Compensation law, which is presently an increase over the past several years, we heard yesterday, in the insurance rate of 423 percent. So, this would add to that and further cripple many of the employers who are trying to meet these very high expenses.

Section 2 of the bill doesn't really change it. If you look at it, it hardly makes a difference. Section 1 is important, but I wish that Mr. Tierney would speak right to the subject and not go all over the bush.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Tierney hit the nail right on the head. If you look at it at the right point of view. If this person refuses to work, not that he refuses, he can't find a job, he is paid 100 percent compensation and he is only 75 percent disabled. Now you are saying, if he wants to get an education, he is going to get 75 percent rather than the 100 percent doing nothing, that is what it says.

The SPEAKER: The pending question is on the motion of the gentleman from Sanford, Mr. Tuttle, that the House accept the Majority "Ought to Pass" Report in non concurrence. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Tarbell of Bangor requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those 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 Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reiterate the points just made by Representative Lewis. The issues have not been addressed very carefully and very honestly in this bill thus far. I, too, handle some Workmen's Compensation cases representing employees. I do not make my living from it.

We are going to be swamped, literally, in the floor of this House as the session unfolds with bills from the Labor Committee, not only in the Workmen's Comp area but other technical areas of labor law. Whether we like it or not, it is a very technical area and we need to deal with the bills on their merits infactually without a lot of rhetoric.

I, too, support vocational rehabilitation, no question about it. We do have measures in our current law to cover that. However, this bill goes far beyond that. It says, if somebody partially disabled, if they are receiving partial comp, partial payments for their partial disability, they want to go to school under the current statute they can go to school up to three years, and the benefits would pay for all their schooling up to three years. Furthermore, they would receive up to \$35 a week for subsidence and for travel, in addition to the compensation partial

payments that they are receiving.

What this bill does is say, that if they are partially disabled and they are partially receiving partial comp while they are in school, they will receive 100 percent total comp. Now, I ask you whether or not this is a compensation bill, to cover those kinds of problems or whether we are setting up a welfare system within our Workmen's Comp? Would a person if they are partially disabled and going to school for up to three years and are receiving \$35 in addition to their partial disability payments, would they be eligible for any welfare, for any SSI? Would they be eligible for other programs throughout the state? Those are some questions that ought to be asked and ought to be debated and explained, and they have not been addressed.

Section 2 of the bill changes the law after it has been finally decided by the law court in the State of Maine. We are going to set Workmen Comp cases back for how many years and how many months for our employees throughout the state, by another rash of litigation. Who makes money off from that, but the employers, the attorneys? And that just isn't right. I don't think this is facilitating the employees from the Workmen's Comp cases.

I would like to pose a question to the gentleman from Pittsfield, Representative Wyman as to testimony that was received before the committee on this bill. Was it testified and was the concensus of the committee, and the understanding of the committee, that if this, bill passed with its three provisions, that it would generally expand Workmen's Comp benefits and payments throughout the State of Maine, both in the public sector and the private sector?

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

The Chair recognizes that gentleman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, in response to the gentleman from Bangor's question as to whether or not the committee could see this as expanding Workmen's Compensation, quite the contrary. You see, if Mr. Tarbell had been listening to the debate this afternoon, and if he had attended the hearing, then he would be well aware of the fact that this legislation is designed "not" to expand Workmen's Compensation benefits, but to give people an opportunity, through rehabilitation, through vocational training, to get off from Workmen's Compensation.

You know, we talk about welfare. I am surprised at the people that are speaking against this bill or the people that are against setting up welfare systems. That is exactly what this legislation is designed "not" to do, not to do. This legislation is designed to help people to become self-sufficient, to help themselves, to be once again productive in the work force. That is what this legislation does. Now, certainly the answer is yes as far as whether or not is it going to facilitate and give financial assistance to the people who are handicapped as a result of injury on the job. The answer to that is affirmative, no question about it. I am not going to try to hide that fact, I am proud of it. This legislation is going to try to help people by giving them financial assistance while they are being rehabilitated and that is what we ought to be doing.

Now, if you believe what we ought to be doing instead is keeping people on Workmen's Compensation indefinitely for the rest of their life and we ought to be paying out of the fund to keep them on a welfare system instead of helping them so they can get off from the system and get supporting themselves and their family, then you will support this bill. It is a plain simple fact of the matter.

By the way, I also want to address another point that the gentleman from Bangor has made and that is the role of the court in all of

this. I don't know too much about separation of powers, but it was my understanding from basic civics that the legislative branch of the government determine what the laws would be to meet the social, political and economic needs of all society and that the court would interpret the meaning of the law. The courts interpretation of any law, whether it be this law or any other law, means that we will not be able to accomplish the objective to which the law was initially established, and it only makes common sense, and is only morally right that we change the law to accomplish the objective for which we mean. If it means the court is going to have to reinterpret it, then so be it.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman's reply has raised a question in my mind. I don't see anything in this bill where it condemns recipients of Workmens' Comp under partial disability to eternal — I am trying to think of a good word — but forever and ever and ever to this particular compensation. I don't see it in the bill at all. The bill doesn't do anything to the present provisions for rehabilitative training.

I would like to ask a question that the gentleman from Bangor asked the gentleman from Pittsfield, in another way. I understood the long expanded story about how this might in the long run reduce the overall burden on the compensation funds but I would like to put the question another way. Would this create — to the gentleman from Pittsfield, an immediate, automatic, benefit payable under Workmens Compensation and would that be translated into increased premiums for Workmens' Comp?

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

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: The answer is; number one, it would be a benefit because it would be easier, more people would be getting vocational rehabilitation.

Number two, it would be immediately translated into the rate, that determined by a rate hearing. When you take a rate hearing, Mr. Morton, men and women of the House, you don't look at a case as to what it is worth now, you project the value of the case over the life expectancies of the people involved. It is my opinion, the more education a person, has, the less his case is worth because there are more things that that person can do in society. So, the rate-making determinations over in the Bureau of Insurance will take all those things into consideration. I wouldn't dare guess what the decision of the Bureau of Insurance would be, but it would be my opinion that it would certainly reduce the value of many cases and I think it certainly would hold the system even. I can't imagine it going up appreciably.

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

Mr. DEXTER: Mr. Speaker Men and Women of the House: I did attend the hearing. The sponsor of the bill stepped up there in front of us and said, I don't understand the bill. The proponents got up there and were for it, but they didn't understand the bill. It is still just as clear as mud. There is one thing that is clear to me, if we want to salvage anything out of this, we had better defeat the Majority "Ought to Pass" Report and accept the Minority "Ought to Pass" Report.

Mr. Tarbell of Bangor was granted permission to speak a fourth time.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I realize the lateness of the hour on a Friday afternoon, but I did not really get an answer to the question that I

raised and I would like to present it once again to the gentleman from Pittsfield.

If a person, while they are receiving vocational rehabilitation schooling, is going to be receiving total benefits as though they were totally incapacitated, even though they were only partially incapacitated under Section 3 of the bill, and Workmens' Comp benefits do apply to the state, how much more and was there any testimony and consideration in the committee as to how much more those benefits are going to cost the various departments of state government in workmens' compensations cases that we have in the public sector?

The SPEAKER: The gentleman from Bangor, Mr. Tarbell, has posed an additional question through the Chair to the gentleman from Pittsfield, Mr. Wyman, who may respond if he so desires.

Mr. Tarbell of Bangor was granted permission to speak a fifth time.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me that under Section 3 of the bill, if we are going to be increasing partial payments to total payments under our state departments, that our state departments will have to be paying more dollars out of the departments for workmens' comp benefits under this provision, which means more dollars spent and more dollars appropriated.

I am just wondering where the fiscal note on this bill is for the state level of government and whether or not this is in violation of Joint Rule 20 that says these fiscal notes should be placed on the bills before they come out of committee and on to the floor of the House so we can use that in our debate.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell, that there is no fiscal note required.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Sanford, Mr. Tuttle, to accept the Majority "Ought to Pass" Report.

The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, I would like to pair my vote with the gentleman from Portland, Mr. Brannigan. If Mr. Brannigan were here, he would be voting yes and I would be voting no.

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

Mrs. LEWIS: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert were here, he would be voting yes and I would be voting no.

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

Mrs. BACHRACH: Mr. Speaker, I would like to pair my vote with the gentleman from Ellsworth, Mr. Silsby. If Mr. Silsby were here, he would be voting no and I would be voting yes.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Sanford, Mr. Tuttle, that the House accept the Majority "Ought to Pass" Report in non-concurrence. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Barry, Benoit, Berry, Berube, Blodgett, Brennerman, Brodeur, Brown, A., Brown, K. C., Call, Carrier, Carroll, Carter, D., Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D., Dutremble, L., Fowlie, Gowen, Gwadosky, Hall, Hickey, Hobbins, Howe, Huber, Jacques, E., Jacques, P., Kane, Kany, Kelleher, LaPlante, Lizotte, Locke, MacEachern, Mahany, Maxwell, McHenry, McKean, McSweeney, Mitchell, Nadeau, Nelson, M., Nelson, N., Norris, Paradis, Paul, Post, Prescott, Rolde, Simon, Soulas, Theriault, Tierney, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Bordeaux, Boudreau, Bowden, Brown, D., Brown, K. L., Bunker, Carter, F., Conary, Cunningham,

Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fentason, Fillmore, Gavett, Gould, Hanson, Higgins, Hunter, Hutchings, Jackson, Joyce, Kiesman, Lancaster, Leighton, Leonard, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, Matthews, McMahon, McPherson, Morton, Nelson, A., Payne, Peltier, Peterson, Reeves, J., Rollins, Roope, Sewall, Sherburne, Small, Smith, Stetson, Stover, Strout, Studley, Tarbell, Torrey, Tozier, Wentworth, Whittemore.

ABSENT — Beaulieu, Birt, Churchill, Elias, Garsoe, Gillis, Hughes, Immonen, Martin, A., Masterson, Michael, Pearson, Reeves, P., Sprowl.

Paired — Bachrach—Silsby; Brannigan—Gray; Jalbert—Lewis.

Yes, 70; No, 61; Absent, 14; Paired, 6.

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

The Bill was read once and assigned for second reading Monday, April 2nd.

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

Senate Divided Report — Report "A" (7) "Ought to Pass" as Amended by Committee Amendment "A" (S-58)

Report "B" (4) "Ought Not to Pass"

Report "C" (2) "Ought to Pass" as Amended by Committee Amendment "B" (S-59)

Committee on Labor on Bill, "An Act Relating to Occupational Loss of Hearing" (S. P. 199) (L. D. 495)

— In Senate, Report "C" read and accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "B" (S-59)

Tabled—March 29, 1979 by Mr. Hobbins of Saco.

Pending—Motion of Mr. Baker of Portland to Accept Report "A" "Ought to Pass" as Amended by Committee Amendment "A" (S-58)

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to apologize for a bad case of stage fright the other day on the House floor. I assure you, that is the first time that has ever happened in either my career as an actor or a politician.

To answer the question of the good gentleman from Bangor, this bill, L. D. 495, which deals with loss of hearing due to industrial noise, it deals what is considered compensable under the Workman's Compensation Law, for loss of hearing. It was a highly technical bill.

Currently, under our present law, sound frequencies of the cycles of 500, 1,000 and 2,000 are considered to be sound frequencies that contribute to the loss of hearing that are considered to be compensable under the Workmens' Compensation Law.

Report "A", which was the Majority "Ought to Pass" Report, changes the frequency level from the current law of 500, 1,000 and 2,000 to 1,000, 2,000 and 3,000 cycles. It was the testimony of professionals in the field, audiologists who testified as both proponents and opponents of this bill, that 1,000, 2,000 and 3,000 cycles be used as a means to measure the sound at which a worker could be compensated by. That is Report A.

Report C simply changes the current statute by correcting some minor error in the law, changing the term ear conduction to air conduction, as well as changing the calibration standards from the American Standards Association of March 21, 1951, and updates the standard to the American National Standards Institute, S-3, 1969.

Report B simply doesn't do anything to change the law.

I should also add that Report A also does the

same thing as Report C. The difference is, we changed the level of frequency.

Based on the testimony of experts in the field, and I do not claim to be an expert, but based on their testimony, I am convinced that we should adopt Committee Amendment "A".

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not support Committee Amendment "A". There were audiologists at the hearing who spoke with great authority; however, they couldn't agree. They couldn't decide which actually were the cycles per second that should be in the range at which people should be able to collect under workmen's compensation. I have a record that has test bees on it and I tested myself just to what these cycles were like so I could speak with a little bit of authority myself, I guess.

Report A does change the calibration from what we have right now but, as I say, the audiologists could not agree on what was proper, so it seems as though until they can really decide exactly where we should be, we ought to leave it just the way it is.

I am on the "Ought Not to Pass," because whether or not there is a fiscal note on any legislation passed here, every bill has to have a fiscal note really, because there has to be a change in the statute. The law books have got to be rewritten in order to correct it. I didn't think that the errors were that bad. Instead of saying ear, you are supposed to say air, and instead of saying the American Standard, you are supposed to say American National Standard, but that really isn't bothering anybody. I think Report B, to me, seems to be the most logical one and that is "Ought Not to Pass." I hope you will not support Report "A".

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: I was sorry that I missed that particular hearing and I do rise today to speak as close to being an expert as anyone in this House. I have been licensed by the Hearing Aid Dealers Board for the State of Maine for the last 18 years and I can honestly say that Report A and Committee Amendment "A" should be accepted.

In regard to the term cycles per second going from 500 to 1,000, 2,000 and 3,000, we are not using those words anymore, however, 500 would accomplish absolutely nothing as far as our law is concerned. That would involve almost anybody, so by putting into 1,000, 2,000 and 3,000, you are being a little more restrictive. Consequently, this won't have everyone claiming that they have disability from hearing. So, I feel that you should accept Committee Amendment "A". Secondly, the words like American National Standard shouldn't be taken too lightly, because without these guidelines, we wouldn't be here at all. Ear conduction, there is absolutely no word used in our dictionary as far as the loss of hearing is concerned. When you test somebody, you test them by air conduction or by bone conduction. Consequently, there is no such word, as I stated earlier, as ear conduction, so these words are very important when you do a test.

If you accept this, I think you would be on the right track, you won't have any problems and I think you should accept it.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that this is an extremely technical, scientific area of the workmen's comp statute that has been on our books for some time. I think we are fortunate to have an expert in this body to help us out with it.

It is my understanding that the current law has been 500, 1,000 and 2,000 in terms of frequency cycles. Report A would change it, shift

it up to 1,000, 2,000 and 3,000. So, for those employees who have been working in various plants and firms throughout our state that have been operating a law of 500, 1,000 and 2,000 if we shift it to 1,000, 2,000 and 3,000, we are shifting, really, the standards of ear quality and hearing loss. If we do shift those in mid-stream, would it not be necessary for employers, if they really wanted to technically protect themselves, to conduct hearing tests for all employees that have been operating under the old standards so they would know whether or not the problems that might arise from hearing occurred under the new standards or the old standards? Isn't this really going to require hearing tests to be given throughout all the state to make sure that you are operating under a new set of rules?

I would like to pose that question through the Chair to any member on the committee or one of our experts in the House.

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

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question of the gentleman from Bangor, Mr. Tarbell, first of all, standards have changed. We have no control over the change of standards. You are talking from 1951 standards to 1969 standards. Maybe in 1979 or ten years from now they are going to change again. We have nothing to do with this. We have to follow these standards. These are government standards and all we are doing is updating our standards for the State of Maine.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: It sounds as if we are trying to undate standards. Possibly that is true, but what are we really doing in the area of whether or not we have compensable benefits that will be paid out?

We now have a certain limited range of compensability. We are paying at a current level, which is putting our fund in the hole now. We are going to change to the new standards so that those people who are out there now on the fringes of the current standards will be incorporated into the benefit package. I question whether or not we should, at this time, pay new benefits when we don't even have the funds and we are having a difficult time with the funding of the program at the present time.

I would certainly like to be able to buy everything at Christmastime that my youngsters want, but there are times when I just have to defer a few of these little requests. I don't think we should be playing Santa Claus here today and adopting these new standards.

What is going to happen is, we are going to be paying more benefits out of a fund that is having a difficult time now trying to stay afloat. Therefore, I think we should vote against the pending motion.

I signed the "ought not to pass" report simply because the only thing we really need to do is change some of the errors and inconsistencies. I feel that at this time we shouldn't go through the whole legislative process of putting an amendment in which is nothing more than an errors and inconsistencies bill, when such a thing could be included in an errors and inconsistencies bill — where we use the term 'ear' instead of 'air' or something like that. Let's not go into the new expense until we can afford it.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: We are not playing Santa Claus. We are simply trying to accurately reflect what is compensatable under the work-

men's compensation laws. If a person loses their hearing due to industrial noise, it is only just that they be compensated.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The experts could not agree at the hearing exactly which cycle should be compensable, so if the experts at the hearing couldn't agree, I don't see how we can say that one cycle is more important than another cycle.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be brief, because I know that we all want to go home for the weekend.

I would simply point out to you that the 4,000 cycles that are in the bill is not what you are voting on. It has been amended down to 3,000 cycles.

My final word on this subject this afternoon is that there was no one at the hearing, including opponents to the bill, who said that 3,000 cycles was not reasonable, was not something they could support. The opposition, the Associated Industries of Maine, brought in an expert and we questioned her at length, we asked her if she could support 3,000 cycles. Her answer was 'yes'.

I hope you will support the amendment.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that as people grow older and older and they age, there is the natural deterioration of hearing and this process is natural whether or not you work in an area where there are high decibel levels or not. It is also my understanding there is a provision in the law to compensate for that so that as somebody does grow older and older and natural hearing loss does deteriorate, depending on which frequency it is, that is deducted when you are figuring out whether or not somebody should be receiving workmen's comp benefits for hearing impairment. You have got to figure out whether or not it is caused by the job and the decibel level or whether it is caused by the natural deterioration process of age. There is a clause in the statute that compensates for that as people grow older, for that natural deterioration process. That clause is based at one half a decibel. If you change from 500, 1,000, to 2,000, which the current law is, to 1,000, 2,000, 3,000, do we not need to change the correlation of the natural deterioration process from probably a half a decibel to two or three, and has this been considered by the committee? If not I would urge to vote against the "ought not to pass" report, because this measure is seriously defective.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to support the passage of Committee Amendment "A". You know many of us through our lifetime, we are very fortunate. We work at a plant or we work in conditions where hearing is not impaired. I would like to ask my friends of this House, what is the loss of your hearing worth today?

People that work on paper machines, they lose their hearing very young in life, many people. We have a paper machine in our city that will run a mile a minute. If you don't think that baby can roll out some paper, it is about two blocks long and the noise is unbearable. You wouldn't believe the noise that comes from that machine, and they done everything humanly possible, all the intelligent scientists we have, all the papermakers who spend their lifetime trying to cut down noises on these paper machines, still, it can not be done. I ask today for a little compassion.

My hearing is worth a lot to me, and I have a very good friend who is 34 years old, and I have

to holler at him for him to hear me, and I talk fairly loud sometimes. He has lost that from the paper machines.

I say that any bill that comes before this House that will help people who have to make a living, raise their family and work under those conditions should have the consideration of this House, should have the consideration for people regardless of these small, little things that we pick out to find fault with, regardless of what it costs for the insurance of these things. What do you value — money or your health? Well, if you give me the choice there is no choice at all.

I would certainly hope today that we could support the "ought to pass" report.

Thereupon on motion of Mr. Baker of Portland, Report "A" was accepted in non-concurrence and the bill read once. Committee Amendment "A" (S-58) was read by the Clerk and adopted in non-concurrence and the bill assigned for second reading the next legislative day.

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

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

Tabled—March 29, 1979 by Mrs. Prescott of Hampden.

Pending—Reference.

On motion of Mrs. Prescott of Hampden, was referred to the Committee on Health and Institutional Services, ordered printed and sent up for concurrence.

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

Bill, "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 223) (L. D. 271)

Tabled—March 29, 1979 by Mr. Davies of Orono.

Pending—Passage to be Engrossed.

Mr. Boudreau of Waterville offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-145) was read by the Clerk.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: This bill came out of the Public Utilities Committee last week with a unanimous "Ought to Pass". What it would do would be to allow the KSTD to increase their surplus account from the \$25,000 now in their charter to \$100,000. This amendment would ask that those funds be put into that fund in increments of \$20,000 per year to a maximum of \$100,000 by 1982. I would hope that this would be a compromise on this issue. I move passage.

Thereupon, House Amendment "A" (H-145) was adopted.

Mr. Carter of Winslow offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-149) was read by the Clerk.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, what this amendment does is, it requires that any changes in the original charter of the Sanitary Treatment District be approved by the participating communities. What in effect this does is, and I hate to use the term, it works similar to the way our Constitution works. We, as elected representatives, may not change the Constitution unless we refer back to the people and, in essence, this would require the same thing of the trustees of the district. They would not be allowed to change the charter unless they refer back to

the communities. This is the type of thing — as I said before, I hate to mention the word but it is like having the foxes guard the chicken coop. This would prevent the district trustees from doing anything to change the charter that was not approved by the participating communities, and I would hope you would support its adoption.

Thereupon, House Amendment "B" was adopted.

The Bill passed to be engrossed as amended by House Amendment "A" and House Amendment "B" and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Permit the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances" (H. P. 18) (L. D. 35) which was tabled earlier in the day and later today assigned pending the motion of Mr. Hobbins of Saco to adhere. (In the House, passed to be engrossed as amended by Committee Amendment "B" (H-118). (In the Senate, passed to be engrossed as amended by Senate Amendment "A" S-67)

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, I move that we recede.

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

Mr. HOBBS: Mr. Speaker and Members of the House: I would just like to have an explanation from the gentleman from Rockland, Mr. Gray, why he wants to recede.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, has posed a question through the Chair to the gentleman from Rockland, Mr. Gray, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I would like the opportunity to offer an amendment.

Thereupon, on motion of Mr. Gray of Rockland, the House receded from its action whereby the Bill was passed to be engrossed.

On motion of the same gentleman, the House receded from its action whereby Committee Amendment "B" (H-118) was adopted, and on motion of the same gentleman, the Amendment was indefinitely postponed.

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

House Amendment "A" (H-142) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Men and Women of the House: I would like to take just a minute to explain this amendment, and I am going to start with present law.

Presently, A, B, and C crimes are open to the public. Other charges of juveniles crimes are open to the public only when such juveniles crimes are combined with A, B and C crimes. Records of less serious crimes, these are the D and E crimes, are, by law, closed to the public. This amendment that I am offering now would give the court discretion to allow public inspection of certain court records; namely, the petition and the order of adjudication in juvenile crimes involving D and E crimes and other minor offenses. In other words, rather than to prohibit the release of the names or records or material, the court could use discretion.

The public, of course, would continue to be excluded from the hearings in such cases, since the court would not be in the position to decide whether the juvenile's name should be made public until the case has been heard. The order of adjudication in such cases would be public unless the court decided it would be in the best interest of the juvenile to close these records.

This is the primary difference between present law and what this amendment sets out to do — after a second of subsequent adjudication of guilt of a juvenile crime, the court would

lose its power to close the records, although hearings would continue to be closed. This amendment would make no changes in public hearings on Class A, B or C crimes or in public access to the court records in those cases. In other words, after the juvenile has committed a second or subsequent crime, the judge could no longer order that the names or the records be withheld.

This is exactly the same amendment as the amendment that I just removed which this House accepted overwhelmingly two or three days ago. There were some language problems with the amendment that this House accepted overwhelmingly, so it was suggest that we dress the language up a little bit so that there would be no question as to what its intent is.

I now move adoption of this amendment.

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

Mr. DAVIES: Mr. Speaker, I would pose a parliamentary inquiry to the Chair. If the amendment that the gentleman from Rockland, Mr. Gray, just killed in his action is the same as the one that he is currently offering, is this one properly before this body?

The SPEAKER: The Chair would pose a question to the gentleman from Rockland, Mr. Gray. In his remarks a few minutes ago, he indicated that the amendment was the same. Would the gentleman care to elaborate on that?

Mr. GRAY: Mr. Speaker, I couldn't say that it is exactly the same, because if it was I wouldn't have offered this House Amendment. What I am saying is, it was necessary to clarify language that left some question in the legal minds here in the House, so this amendment was necessary to accomplish that.

The SPEAKER: The Chair would advise the gentleman that the amendment which was indefinitely postponed was Committee Amendment "A", which the Senate also indefinitely postponed. As a result of the motion of the gentleman from Rockland, Mr. Gray, both bodies have now rejected Committee Amendment "A". Then the gentleman indefinitely postponed Committee Amendment "B". Committee Amendment "A" is not before this body. As a result, both Committee Amendment "A" and Committee Amendment "B" have now been rejected. The amendment offered by the gentleman from Rockland contains the same material as Committee Amendments "A" and "B".

Further, the Chair would advise the gentleman, and to make matters even more confusing, the other body also tacked on Senate Amendment "A" and it would appear at this point that it may well be that the only thing that is amendable is Senate Amendment "A".

Based on that and pursuant to House Rule 1, the matter will be tabled pending a further ruling from the Chair.

Thereupon, tabled unassigned pending a ruling from the Chair.

(Off Record Remarks)

On motion of Mr. Berry of Buxton, adjourned until Monday, April 2, at 10 o'clock in the morning.