

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred and Tenth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

INDEX

FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

INDEX

FIFTH SPECIAL SESSION

May 13, 1982

INDEX

SECOND CONFIRMATION SESSION

July 16, 1982

INDEX

HOUSE

Friday, March 19, 1982

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

Prayer by the Reverend William Shackelford of the Kennebec Valley Baptist Church, Waterville.

The Journal of the yesterday was read and approved.

**Papers from the Senate
Reports of the Committee
Ought Not to Pass**

Report of the Committee on State Government reporting "Ought Not to Pass" on Bill "An Act to Amend the Maine Guarantee Authority Act" (S. P. 781) (L. D. 1849) (Representative Holloway of Edgecomb — Abstained)

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 Amend the Membership of the Governor's Advisory Council on Alcoholism and Drug Abuse Prevention and Treatment" (S. P. 740) (L. D. 1725) (Representative Holloway of Edgecomb — Abstained)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act Amending the Code of Fair Practices and Affirmative Action" (S. P. 886) (L. D. 2032)

Came from the Senate with the Report read and accepted.

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

Messages and Documents

The following Communication: (S. P. 930)

**State of Maine
Senate Chamber
President's Office**

March 18, 1982

Honorable Barbara A. Gill
Honorable Merle R. Nelson
Chairmen
Joint Standing Committee on
Health & Institutional Services
State House
Augusta, Maine 04333
Dear Committee Chairmen:

Please be advised that Governor Joseph E. Brennan is nominating Richard F. Nellson of Portland for appointment as Chair of the State Health Coordinating Council.

Pursuant to Federal Law, PL 96-79 Section 1524 (b) (2) of the Health Planning and Resources Development Amendments, this nomination will require review by the Joint Standing Committee on Health & Institutional Services and confirmation by the Senate.

Sincerely,

S/JOSEPH SEWALL
President of the Senate.
S/JOHN L. MARTIN
Speaker of the House

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

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

Special Sentiment Calendar

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

The Sanford High School Wrestling Team, coached by John Caramihalis, which won the 1981-82 State Class A Wrestling Championship, its 13th State Championship; (H. P. 2202) by Representative Tuttle of Sanford. (Cosponsors: Senator Wood of York, Representatives Paul of Sanford and Ridley of Shapleigh)

Andy Caramihalis, a member of the Sanford High School Wrestling Team, who won the 1981-82 State Championship at 132 pounds; (H. P. 2203) by Representative Tuttle of Sanford. (Cosponsors: Senator Wood of York, Representatives Paul of Sanford and Ridley of Shapleigh)

Harry Winslow, of Harrison, upon his retirement from public service as Public Works Foreman for the community; (H. P. 2204) by Representative Jackson of Harrison.

There being no objections these items were considered passed and sent up for concurrence.

**House Reports of Committees
Leave to Withdraw**

Representative Dexter from the Committee on Energy and Natural Resources on Bill "An Act to Require Safety Information with Wood Stoves and Furnaces" (H. P. 2079) (L. D. 2021) reporting "Leave to Withdraw"

Representative Martin from the Committee on Business Legislation on Bill "An Act to Prevent Abuses in Certain Land Installment Contracts" (H. P. 2073) (L. D. 2016) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Representative Macomber from the Committee on Transportation on Bill "An Act Relating to the Board of Harbor Commissioners and its Powers for the Harbor of Portland" (H. P. 2016) (L. D. 1987) reporting "Ought to Pass" in New Draft (H. P. 2198) (L. D. 2077)

Report was read and accepted and the New Draft read once.

Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

Ought to Pass in New Draft/New Title

Representative MacEachern from the Committee on Fisheries and Wildlife on Bill "An Act Pertaining to Inland Fisheries and Wildlife Laws" (H. P. 1731) (L. D. 1716) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws" (H. P. 2200) (L. D. 2079)

Report was read and accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

Ought to Pass

Pursuant to Joint Order H. P. 1846

Representative LaPlante from the Committee on Local and County Government pursuant to Joint Order H. P. 1846 reporting a Resolve, for Laying for the County Taxes and Authorizing Expenditures of Oxford County for the Year 1982 (Emergency) (H. P. 2199) (L. D. 2078) asking leave to report that the same "Ought to Pass"

Report was read and accepted and the Resolve read once. Under suspension of the rules, the Resolve was read the second time, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Amend the Child Support Laws to Conform with Federal Statutes" (H. P. 1839) (L. D. 1839) reporting "Ought to Pass" in New Draft/New Title Bill "An Act to Amend the Child Support Laws" (H. P. 2184) (L. D. 2070)

Report was signed by the following members:

Senators DEVOE of Penobscot, CONLEY of Cumberland, and KERRY of York — of the Senate.

Representatives:

LUND of Augusta
LIVESAY of Brunswick
O'ROURKE of Camden

JOYCE of Portland
DRINKWATER of Belfast
SOULE of Westport
REEVES of Newport
HOBBINS of Saco
BENOIT of South Portland

— of the House.

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

Report was signed by the following member: Representative:

CARRIER of Westbrook

— of the House.

Reports were read.

On motion of Mr. Hobbins of Saco, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading the next legislative day.

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-659) on Bill "An Act Relating to Assigned Risk Plans in Workers' Compensation Insurance" (H. P. 1995) (L. D. 1971)

Report was signed by the following members:

Representatives:

MARTIN of Van Buren
POULIOT of Lewiston
PERKINS of Brooksville
FITZGERALD of Waterville
BRANNIGAN of Portland
RACINE of Biddeford
TELOW of Lewiston
GWADOSKY of Fairfield

— of the House.

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

Report was signed by the following members:

Senators:

SUTTON of Oxford
CLARK of Cumberland
SEWALL of Lincoln

— of the Senate.

Representatives:

JACKSON of Yarmouth
GAVETT of Orono

— of the House.

Reports were read.

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

Mr. BRANNIGAN: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" Report.

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

Mr. JACKSON: Mr. Speaker, I would request that someone try and explain this bill.

Thereupon, the Report was accepted and the Bill read once.

Committee Amendment "A" (H-659) 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 Election Laws reporting "Ought Not to Pass" on Bill "An Act Relating to the Collection of Signatures at Polling Places" (H. P. 2118) (L. D. 2039)

Report was signed by the following members:

Senator:

PIERCE of Kennebec

— of the Senate.

Representatives:

WILLEY of Hampden
WENTWORTH of Wells
WEYMOUTH of West Gardiner
ROBERTS of Buxton
HANSON of Kennebunkport
CAHILL of Woolwich

— of the House.

Minority Report of the same Committee re-

porting "Ought to Pass" on same Bill.

Report was signed by the following members:

Senators:

PRAY of Penobscot

CARPENTER of Aroostook

— of the Senate.

Representatives:

NADEAU of Lewiston

PARADIS of Augusta

DIAMOND of Bangor

MARTIN of Van Buren

— of the House.

Reports were read.

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

Mr. NADEAU: Mr. Speaker, I move acceptance of the Minority "Ought to Pass" Report.

The SPEAKER: The gentleman from Lewiston, Mr. Nadeau, moves that the Minority "Ought to Pass" Report be accepted.

The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you today not to accept the Minority Report of this committee. Although I do believe the original intent of the bill was to clarify a very vague situation that now exists in our elections law, unfortunately, this piece of legislation only adds ambiguity to the present law.

It is, just in case you haven't read the bill, "An Act Relating to the Collection of Signatures at Polling Places." It says, "Any person who intends to collect signatures on an initiative referendum petition in a polling place on election day may notify the warden of that voting place before noon of the preceding day. All persons who notify the warden under this subsection shall have equal access to the reserved area under the subsection."

Then it goes on to define reserved area. "On the basis of the number of persons notifying him, the warden of each voting place shall reserve the area in that polling place that is most reasonable in size and convenience for the collection of signatures by the persons notifying him under Subsection 1. If the area most reasonable convenient for that purpose is insufficient to accommodate every person notifying him, the warden may limit the number of persons collecting signatures there, provided that the limitation applies equally to each petition question and no petition group represented by a person notifying him is excluded from that area altogether" and it goes on.

What the bill would do is, the warden would make space available for each petition group. In other words, if there were 22 individual petitioners collecting signatures on 22 different causes, they all, by law, would have to have access to the voting place.

Now, if you will think of your voting place just for a minute back home, and if you have half a gymnasium you probably don't have a problem, but if you, like some of us, are stuck in one corner of the firehouse or classroom, or perhaps the selectmen's office, you can imagine what 22 different petitioners, the kind of congestion and confusion that they will probably cause.

To be a bit reasonable, we probably will never have 22 petitioners petitioning for 22 different causes, but this bill clearly and simply restricts the powers of the warden of the voting place and could, indeed, in my opinion, impede the voting process.

I am all for petitioners being allowed their right to petition and to gather signatures on election day, but when space becomes a problem and too many petitioners begin to obstruct the voting procedure, I believe the warden should be allowed to say "no more petitioners." If this legislation were enacted, he couldn't.

I also wonder about the emergency nature of this bill. I would ask you not to accept Mr. Nadeau's motion so that then you can indeed

accept the Majority Report from the Committee on Election Laws, "ought not to pass."

The SPEAKER: The Chair recognizes the gentlewoman from Wells, Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I would agree entirely with Representative Cahill. The bill allows nothing that is not allowed now, and it went out of committee, from the 10 that were there, with a 7 to 3 "ought not to pass."

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

Mr. DIAMOND: Mr. Speaker and Members of the House: I would like to explain this piece of legislation, which is a bipartisan effort dealing with some of the concerns that were expressed last year when we dealt with the legislation that called for the prohibition of gathering of signatures at the polling place.

Last year, that was defeated by a narrow margin, and some of the members of the Election Laws Committee agreed that we would look at the problem this session and try to come up with a solution or an attempt to deal with the problems of the town clerks and the town wardens that stayed within the law and that recognized the sentiment of the legislature last year.

Representative Rolde, Representative Murphy and Representative Brown and I submitted this legislation in hopes of dealing with some of those concerns.

As you will remember from our discussions last year, there was quite a bit of concern over the confusion at the polling places. People were worried that the polling area was too congested and that was one of the reasons behind the efforts to prohibit the gathering of signatures.

This particular bill recognizes the law and establishes some guidelines that would provide some order for those town clerks to use so they would not find themselves inundated with people with petitions at the last minute on election day.

What the bill says is that people who would like to gather signatures at the polling place are encouraged to notify the town clerk or warden by noon of the day prior to the election in order for that town clerk or warden to prepare or at least to realize that they will have some people coming. People who do not notify the clerk ahead of time will still have the opportunity for space provided to gather signatures, but those people who give advance notice to the clerk and who provide the clerk with the courtesy of telling them that they are coming will have priority space.

This is not mandating that they be in the polling area or in the polling place. Everything in this bill, despite what my friend from Woolwich says, is contingent upon Section 891 of the law, and the bill, in the very last line, Section 4, states this. It says, "This section shall be subject to the limitation in Section 891." Section 891 involves the powers of the clerk and the town warden so that there is nothing here that waters down the warden's ability to say no, it's too crowded, you will have to go outside or, no, you are causing a ruckus or, no, you are interfering with the election process.

Everything in this bill deals with the existing law, and should we change that law in the future, this bill would change with it. This bill is directly tied to that law, and that is the intent. We don't want to do anything in this bill, and the bill does not do anything that expands the right of people to gather petitions, nor does it restrict them. It sets some guidelines only.

There is a great amount of confusion about what this bill does because of the language as it reads in the beginning, but the bottom line is the bottom line in this bill, and it says "everything in this bill is subject to the existing law in Section 891."

My friend Mrs. Cahill, I think, is wrong on a couple of points, but one thing she pointed out is that this is an emergency bill. It is not, and if you will look at it, it clearly is not.

This would take effect prior to the November election so that we won't have confusion at the polls. I think it is not the answer to the concerns expressed last year but it is a step in the right direction and recognizes again that the legislature went on record in favor of something last year. We are doing something that is just establishing some guidelines within the sentiment expressed last year.

I hope you will support the motion of the gentleman from Lewiston, Mr. Nadeau.

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

Mr. BRODEUR: Mr. Speaker and Members of the House: The way I read this bill, it does one additional thing. It seems that it would override the decisions of local cities and towns who have decided to prohibit collecting of signatures at the polling place, and I think that it does that. It is not quite clear that it does that, but it seems to me that it does.

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

Mr. DIAMOND: Mr. Speaker, to respond to my good friend from Auburn, Mr. Brodeur's question, whether or not this overrides any municipal ordinance that would prohibit the gathering of signatures at the polling place, the existing law already—well, state law supersedes any local ordinance. If we are dealing with a state election, a referendum, a general election, a primary election, a local ordinance does not supersede a state law; that is very clear. Local ordinances can apply on this particular point to a municipal election but it does not deal with state elections. This bill in no way adjusts that, absolutely not. We still are subject to the laws, as I stated before, and would not at all affect the legality or illegality of those municipal ordinances that may or may not prohibit the gathering of signatures.

The SPEAKER: The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker and Members of the House: Just very briefly. I think the place in the statutes that the ambiguity, the way I see it, lies is under Section 891, under the powers of the warden at a voting place, and it says in this section of the law that party workers and others may remain in the voting place outside the guardrail, as long as they do not attempt to influence or interfere with the free passage of voters. If any person attempts to influence or interfere with the free passage of voters, the warden shall have him removed from the voting place, and I think that is where there is a very fine line.

And in response to Mr. Diamond of Bangor, of course I know this doesn't have an emergency preamble. On the other hand, this is an emergency session of the legislature, and I would ask for a roll call, Mr. Speaker.

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 Lewiston, Mr. Nadeau, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Baker, Benoit, Boyce, Brannigan, Brennerman, Brown, D.; Connolly, Cox, Davies, Diamond, G.M.; Diamond, J.N.; Erwin, Fitzgerald, Gwadosky, Hayden, Higgins, H.C.; Hobbins, Kilcoyne, Lisnik, Locke, Macomber, Martin, H.C.; McCollister, McGowan, Michaud, Mitchell, J.; Murphy, Nadeau, Paradis, P.; Perry, Reeves, P.; Richard, Rolde, Smith, C.B.; Thompson, Tuttle.

NAY—Aloupis, Armstrong, Austin, Beaulieu, Bell, Berube, Boisvert, Bordeaux, Brodeur,

Brown, A.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, Carter, Clark, Conary, Conners, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Fowlie, Gavett, Gowen, Hall, Hanson, Hickey, Higgins, L.M.; Holloway, Huber, Hunter, Ingraham, Jackson, P.T.; Jackson, P.C.; Jacques, Jalbert, Jordan, Joyce, Kany, Kelleher, Ketover, Kiesman, Lancaster, LaPlante, Laverriere, Lewis, Livesay, Lund, MacBride, MacEachern, Mahany, Manning, Martin, A.; Masterman, Masterton, Matthews, McPherson, McSweeney, Moholland, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Pearson, Perkins, Peterson, Pines, Pouliot, Randall, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.W.; Soulas, Soule, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Theriault, Treadwell, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth, Willey.

ABSENT—Chonko, Dudley, Gillis, Hutchings, Kane, McHenry, Michael, Mitchell, E.H.; Nelson, M.; Post, Racine, The Speaker.

Yes, 36; No, 103; Absent, 12.

The SPEAKER: Thirty-six having voted in the affirmative and one hundred three in the negative, with twelve being absent, the motion does not prevail.

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

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-653) on Bill "An Act to Regulate the Harvest of Antlerless Deer Within the Western Deer Zone" (H. P. 1754) (L. D. 1744)

Report was signed by the following members:

Senators:

USHER of Cumberland
REDMOND of Somerset
HICHENS of York

— of the Senate.

Representatives:

MacEACHERN of Lincoln
DAMREN of Belgrade
JACQUES of Waterville
PETERSON of Caribou
PAUL of Sanford

— of the House.

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

Report was signed by the following members:

Representatives:

CLARK of Millinocket
GILLIS of Calais
CONNERS of Franklin
SMITH of Island Falls
ERWIN of Rumford

— of the House.

Reports were read.

On motion of Mr. MacEachern of Lincoln, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-653) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, I would like to pose a question through the Chair. Am I correct in interpreting the amendment as being applicable to any place within the State of Maine rather than limited to the western zone?

The SPEAKER: The gentlewoman from Houlton, Mrs. Ingraham, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Members of the House: In answer to the question, the new amendment would apply anywhere in the State of Maine.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, I would like to pose another question through the Chair.

At whose discretion, is it the Commissioner's?

The SPEAKER: The gentlewoman from Houlton, Mrs. Ingraham, has posed another question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I guess the best way I can answer it is to describe what the new amendment does. It provides that the Commissioner must, before he puts this into effect in any area of the state, hold a public hearing within the county that the bill would be put into effect in. After the hearing, he must get the advice and consent of the Advisory Council and then when he decides when and where it is going to be, it would have to be within recognizable boundaries, such as a river or major highway or railroad track or such that can be picked out with the naked eye, you don't have to go by town lines or anything. If he decides to do this in any area, he must publish it prior to September 1st of the year that it is going to be instituted.

The effective date of the bill would be January 1, 1983, and it has a three year sunset, which would repeal the bill on March 31, 1986. It is quite restrictive, it does give the Commissioner the authority to use this as a method of controlling the herd. At the present time, the only thing the Commissioner can do is either shorten the season or close the season, and that has been tried in the past and has been found that this just creates a heavier pressure on the areas that aren't being regulated and it also is an economic factor to the people that run sporting camps and are guides, etc., in an area that is affected.

I think that pretty much tells what the bill does. It is very restrictive. In the past, I have been opposed to this type of legislation. The people that initiated this bill in the first place have been trying to get something passed for five years, and I think where the bill is as restrictive as it is, it would be a good idea to give them an opportunity to try it out and in a three year period there should be some results one way or the other. At the end of that three year period, if the legislature at the time decides that this is good or is not good legislation, they can take the thing from there. It is kind of an experimental thing and it is very restrictive and I just feel that we ought to try it and see what happens. Does that answer your question?

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

Mr. BRODEUR: Mr. Speaker, a parliamentary inquiry?

The SPEAKER: The gentleman may state his inquiry.

Mr. BRODEUR: Is the amendment germane to the bill?

The SPEAKER: This matter will be tabled pending a ruling of the Chair.

Divided Report Tabled Assigned

Majority Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Promote Local Control of Hazardous Waste Facilities" (H. P. 2014) (L. D. 1984)

Report was signed by the following members:

Senators:

McBREAIRTY of Aroostook
REDMOND of Somerset
O'LEARY of Oxford

— of the House.

Representatives:

DEXTER of Kingfield

KIESMAN of Fryeburg
AUSTIN of Bingham
HUBER of Falmouth
JACQUES of Waterville

— of the House.

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

Report was signed by the following members:

Representatives:

MICHAUD of East Millinocket
MITCHELL of Freeport
HALL of Sangerville
DAVIES of Orono
MICHAEL of Auburn

— of the House.

Reports were read.

On motion of Mr. Hall of Sangerville, tabled pending acceptance of either Report and specially assigned for Tuesday, March 23.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-664) on Bill "An Act Excluding Wages of Certain Temporary Alien Workers from Unemployment Compensation Tax" (H. P. 1972) (L. D. 1947)

Report was signed by the following members:

Senators:

SEWALL of Lincoln
DUTREMBLE of York
SUTTON of Oxford

— of the Senate.

Representatives:

BEAULIEU of Portland
MARTIN of Brunswick
ARMSTRONG of Wilton
FOSTER of Ellsworth
JACKSON of Harrison
LEWIS of Auburn
TUTTLE of Sanford
LAVERRIERE of Biddeford

— of the House.

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

Report was signed by the following members:

Representatives:

BAKER of Portland
McHENRY of Madawaska

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

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

Mr. CONNOLLY: Mr. Speaker, I would like to pose a question through the Chair. Would the Chairwoman or some member of the committee explain what this bill is and how the bill as it has been amended differs from the bill that was originally introduced?

The SPEAKER: The gentleman from Portland, Mr. Connolly, has posed a question through the Chair to the gentlewoman from Portland, Mrs. Beaulieu, who may respond if she so desires.

The Chair recognizes that gentlewoman.

Mrs. BEAULIEU: Mr. Speaker and Members of the House: The amended version of the bill simply indicates that this particular piece of legislation shall apply only to those involved in the apple harvesting industry. What we are doing with the bill is making our laws contiguous with the proposals that will be forthcoming from Washington that has always exempted this particular industry from the unemployment fund.

This past year, the Bureau of Labor in Maine had come down with the ruling that this particular industry should be paying into the U.I. Fund for the alien workers that come into our state, specifically from Jamaica, during the

apple harvesting season. They appealed that decision to the U.I. Commission and their request was upheld because of past precedents set in Washington that allowed this kind of exemption.

For example, the Jamaican workers that come into our state have to be approved, first of all, by the Bureau of Labor. There is no reciprocal agreement, unlike Canadian workers coming to Maine to harvest potatoes. When the Canadian labor force comes into our state, they come in by permission and they are eligible to collect unemployment compensation after they have worked that particular job. The Jamaican workers are not eligible to ever collect unemployment compensation.

There are a lot of justifications and rationalizations as to why this should not occur. There are people that feel very strongly that the alien worker coming into this state distresses the wages of the American worker or the Maine worker in the fields, but unfortunately that is a policy decision. It is a policy decision that technically cannot be made by this state. That policy decision needs to be made in Washington and at that level, and until that can occur, if we are not in compliance with the federal standards or the federal law, the state tends to lose a lot of dollars. Therefore, I feel that we have no alternative but to adopt this at this point in time.

The amendment also makes it very clear they will not come into effect until the resolve in Washington has passed through Congress. Congress has already indicated that they will continue to grant this exemption but the exemption is buried in an omnibus bill and there are sections of that omnibus bill that are now in committee of conference.

The concern by the harvesters, the apple harvesters in our state, is that they have to start preparing very early in the summer to find out how much of a work force that they are going to be able to have, where they have to apply for the alien worker and will Congress have taken action in time before the apple harvesting season. Therefore, that explains the amendment, trustingly.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: the gentlewoman said some things about the legislation that I didn't understand before, but it is my understanding that if this bill were to pass, it would, in effect, allow one segment of our employers in this state to be exempt from paying into the Unemployment Insurance Fund; the apple industry would be exempt from paying into the Unemployment Insurance Fund.

The bill, as it was originally presented, I understand and from my reading of it, dealt with all alien workers, whether they worked in the apple industry or worked up in the woods in the northern part of the state and the amendment takes care of the employers for the woods industry workers. They continue to have to pay into the Unemployment Insurance Fund.

I don't think this is something that this legislature ought to pass at this particular point. It has been suggested that perhaps we allow the bill to go on to its second reading where there might be an amendment that is more appropriate that could be offered to straighten out some of the problems, but from reading the legislation and the intent behind it, I would prefer to kill it right now.

Mr. Speaker, I would make the motion that this Bill and all its accompanying papers be indefinitely postponed and I would ask for a roll call.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I will ask you to vote against that motion. If the gentleman from Portland has a copy of L.D. 1947 before him, he will note in the Statement of Fact that this bill

was put in for this particular specific purpose. We just passed the other day, by unanimous consent, a bill that would exempt sternmen on fishing boats from the U.I. tax, so this is not unique and we have taken action for exemptions in other industries before.

Granted, the original bill said, agricultural labor. We amended it because there was a concern on the part of members of the committee that this could open up to other employers in our state the encouragement of seeking Jamaican workers to come into the field.

I did go to leadership and ask if the inclusion of those words would convolute the intent of the bill and I was assured that it would not. I guess I am not sure if I want to call Canadian labor alien workers, I don't think they are, but when they do come into our state, there is a reciprocal agreement between the State of Maine and the government in Canada that specifically states that if they do come and work here with permission from the Bureau of Labor, that the employer will pay the U.I. tax because they, in turn, are eligible to collect. There is no reciprocal agreement with Jamaican workers. They can never collect. Therefore, as far as I am concerned, policy-wise I think it is inconceivable that we should force an employer to pay into that fund, when in actuality the workers that they bring in will never be able to collect. And since the federal regulations already grant this specific industry an exemption, they do that for the tobacco industry too, but our industry in Maine that comes under the federal statutes is the apple harvesting industry and I feel that the amended version is in good keeping with the intent of the original bill.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: In reviewing this bill and listening to the debate, I am afraid that I have to agree with Representative Connolly that this is a bill that its days on earth should be numbered. The reason that I came to this conclusion is that as I see this bill, regardless of the policy that the federal government has with the Jamaican government, if this bill passes, one of the things that you are doing is, you are providing a pool of low cost labor for the apple orchards that are going to be competing at an unfair advantage with American apple pickers — one problem that I see. The reason that they would be at an unfair advantage is because employers who choose to hire Jamaicans don't have to pay the unemployment compensation tax. The employers that hire anybody else on the face of the earth to do the job would have to pay the tax. It seems to me that that is a bad policy for this legislature to be undertaking.

The second problem that I see with this is that the principle of unemployment compensation, that we are dealing with a pool where all employers contribute to the pool of which the state pays unemployment compensation — one industry may hit it one time and another industry may hit another. We are not in the habit of making exemptions for one type of employer, particularly for one type of employer who may hire one nationality of alien. It seems to me that the bill, even though it may comport with a policy from the federal government, is a very bad policy for us to undertake and I would urge you to vote to indefinitely postpone it.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: This happens to be my bill and I cannot quite gather the philosophy behind this. I am sure that if it were a lady or a gentleman within Mr. Hayden's law office whom he was paying Blue Cross-Blue Shield on who had no way of collecting on this, that he would consider discontinuing paying such a premium.

The apple industry in Maine does everything it can to employ local people or people from within the United States. They have done this for years, they even put special posters within

the Job Service and Employment Agencies. Once they have found that they cannot get enough people to work this limited harvesting season, they, in turn, look elsewhere and they in the past got the Jamaican workers in here. They are fine people, they do a good job, I have mingled with them, they are really fine people and they have a wonderful work effort. When the time comes that we have a reciprocal agreement with Jamaica, the apple industry will be more than willing to pay the unemployment insurance tax on them. But at the present time, the unemployment that they have had to pay on them does not do the worker one iota of good, so I would hope that you would support this bill.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I voted for this bill for one simple reason. Like Mr. Davis said, we cannot get enough American help. They have sore backs, they work one day, they work a half a day, but these poor fellows from Jamaica, they work all the time and put extra time in and they really do their job and that is the reason why the apple industry employs them, because our people are not capable, some of them aren't capable of doing the work because they are too lazy to do it.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: The overall thing we seem to be missing here with this piece of legislation is the concept of the Unemployment Compensation Fund. The concept of one is a pooled fund—all the employers share that responsibility and that is what we are getting away from and that is what will happen if we enact this piece of legislation. The gentleman from Portland, Mrs. Beaulieu, made reference to a piece of legislation we passed a while ago. I suggest that that particular piece of legislation is not the same boat. That particular issue was so convoluted that we had to act in that particular matter. That is why I ask you to go along with the motion of the gentleman from Portland, Mr. Connolly, and defeat the bill.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: In listening to the testimony in reference to L. D. 1947 and the amendment which I am sure everyone has had an opportunity to look through at the present time, one of the gentlemen to my right in his debate indicated that the cost of labor was too expensive to these people who utilize foreign labor such as Jamaican's in apple picking. It was brought out in testimony that it might be a little more expensive because the people have to be bonded. They have to be provided a residence and their lodging and meals.

The Representative from Brunswick got to part of the issue about the ability of the local people who are available to harvest the apples. They just don't have the ability to pick as fast as the Jamaicans. They are not as acceptable—they can collect a little more if they happen to be unemployed at the time by unemployment than by picking the apples, as was indicated in the testimony.

One thing I think everybody has to realize—before the Jamaicans can come to Maine to pick apples or harvest for Maine growers, that Maine growers have to prove that they need these people. They have to prove that they need these people by going to the Department of Labor over here and making applications, and upon a hearing, the Department of Labor makes the recommendation as to whether to let these apple growers have the harvesters come into the state and harvest the crop.

Now, we are talking about a crop that has a short term and needs to be picked very quickly. The life is about five weeks and you are talking

about several bushels, several boxes or whatever the case may be of apples that have to be harvested in an orderly fashion and taken care of in an orderly fashion so we will have a product which we can market outside of the state, not only here. As long as they meet the criteria of the Department, the Department then makes the recommendation as to whether to let the harvesters proceed to work in this state. So I just think we are talking about an industry in this state which contributes a tremendous amount to the economy. We are not really diverging from previous paths that the legislature has taken in admitting and letting other areas have the—I guess you might say the escape from paying unemployment compensation on workers. We have done it for members of bands, we have done it the other day with the bill that came through and I don't think it is any more unlike what we have here than it is—that one there, there are several areas in the unemployment compensation law that do already exempt from this purpose.

I just think the bill happens to have a good position. If it passes or it doesn't pass, I don't think it makes much difference because the federal government is going to make the determination. If they appeal it again, it just exempts that process, and as the amendment is written, if the federals don't exempt it, we are not going to exempt it, so I just think in all fairness and honesty to the growers and industry in this state, that it certainly contributes to the economy in this state and that we should pass it.

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

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

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: As you heard from the previous speaker, this bill is not needed because we are going to do what the federal law says. This is what the bill says, so what is the sense of having a bill just to clutter up our laws? Let's not pass it; let's indefinitely postpone the bill.

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

ROLL CALL

YEA—Baker, Benoit, Brannigan, Connolly, Davies, Diamond, J.N.; Fitzgerald, Gowen, Hayden, McHenry, Mitchell, J.; Perry, Reeves, P.

NAY—Aloupis, Armstrong, Austin, Beaulieu, Bell, Berube, Boisvert, Bordeaux, Boyce, Brennerman, Brodeur, Brown, A.; Brown, D.; Cahill, Callahan, Carroll, Carter, Chonko, Clark, Conary, Connors, Cox, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Diamond, G. W.; Dillenback, Drinkwater, Erwin, Foster, Fowlie, Gavett, Gwadosky, Hall, Hanson, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, P.T.; Jacques, Jalbert, Jordan, Joyce, Kane, Kany, Kelleher, Ketover, Kiesman, Kilcoyne Lancaster, LaPlante, Laverriere, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; Masterman, Masterton, Matthews, McColister, McGowan, McPherson, McSweeney, Michaud, Moholland, Murphy, Nadeau, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Peterson, Pines, Post, Pouliot, Randall, Reeves, J.; Richard, Ridley, Roberts, Rolde,

Salsbury, Sherburne, Small, Smith, C.B.; Smith C.W.; Soulas, Soule, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Theriault, Thompson, Treadwell, Tuttle, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth, Willey.

ABSENT—Brown, K.L.; Carrier, Dudley, Gillis, Jackons, P.C.; Michael, Mitchell, E.H.; Nelson, M.; Racine, The Speaker.

Yes, 13; No, 128; Absent, 10.

The SPEAKER: Thirteen having voted in the affirmative and one hundred twenty-eight in the negative, with ten being absent, motion does not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-664) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 23.

Consent Calendar

First Day

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

(H. P. 2088) (L. D. 2022) Bill "An Act to Create a State Set-aside for Petroleum Products"—Committee on Energy and Natural Resources reporting "Ought to Pass"

On objection of Mr. Higgins of Scarborough was removed from Consent Calendar.

Thereupon, the Committee Report was accepted, the Bill read once and assigned for the second reading Tuesday, March 23.

(H. P. 2119) (L. D. 2041) Bill "An Act to Amend the Charter of the Lincoln Water District"—Committee on Public Utilities reporting "Ought to Pass"

(H. P. 2097) (L. D. 2031) Bill "An Act to Revise the Charter for the Brunswick Sewer District"—Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-665)

There being no objections, under suspension of the rules, the above items were given Consent Calendar Second Day notification, passed to be engrossed and sent up for concurrence.

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

An Act to Prohibit Public Drinking on School Premises Without Requiring Prior Warning by a Law Enforcement Officer (H. P. 1929) (L. D. 1912) (S. "A" S-400)

—In House, Passed to be Enacted on March 10.

—In Senate, Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

Tabled—March 18 by Representative Lisnik of Presque Isle.

Pending—Further Consideration.

On motion of Mr. Lisnik of Presque Isle, the House voted to adhere.

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

Passed to Be Enacted Emergency Measure

An Act to Amend the Maine Consumer Credit Code Regarding First Mortgages and Mobile Homes (S. P. 759) (L. D. 1817) (C. "A" S-408)

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, 136 voted in favor of the same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Maine Consumer Credit Code Regarding Educational Loans and Cosigner Notices (S. P. 787) (L. D. 1852) (C. "A" S-407)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken, 134 having 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.

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

Passed to Be Enacted

An Act to Provide a Directional Sign at Exit 11 of the Maine Turnpike Indicating Mt. Abram Ski Area and Sunday River Ski Resort (H. P. 1800) (L. D. 1790) (C. "A" H-647)

An Act to Permit Physician's Assistants to Take Blood Samples in Cases Involving Operating Under the Influence (H. P. 2028) (L. D. 2004) (H. "A" H-635 to C. "A" H-634)

An Act to Amend the Medical Practice Act (H. P. 2070) (L. D. 2011)

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

The following paper appearing on Supplement No. 3 was taken up out of order by unanimous consent:

Bill "An Act to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians" (S. P. 931) (L. D. 2076)

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

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

The following papers appearing on Supplement No. 4 were taken up out of order by unanimous consent:

Leave to Withdraw

Representative Jackson from the Committee on Labor on Bill "An Act to Revise the Workers' Compensation Laws Relating to Occupational Hearing Loss" (H. P. 1981) (L. D. 1952) reporting "Leave to Withdraw"

Representative Martin from the Committee on Labor on Bill "An Act Relating to the Provision of Rehabilitation as Part of the Workers' Compensation Law" (H. P. 2029) (L. D. 1988) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Consent Calendar

First Day

(H. P. 2177) (L. D. 2069) Bill "An Act to Establish the Discount Rate for the Tree Growth Tax Law"—Committee on Taxation reporting "Ought to Pass"

There being no objections, under suspension of the rules, the above item was given Consent Calendar Second Day notification, passed to be engrossed and sent up for concurrence.

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

The following Joint Order: (S. P. 932) ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, March 23, 1982, at nine o'clock in the morning.

Came from the Senate read and passed.

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

On motion of Representative Post of Owl's Head, the following Joint Order: (H. P. 2197)

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation report out a bill conforming Maine Tax Law to changes in the United States Internal Revenue Code as follows:

1. For noncorporate taxpayers under Title

36, chapters 801 through 815 and for taxpayers under chapter 817 who are subchapter S corporations as defined under the code, conformity with federal law means the United States Internal Revenue Code as in effect on December 31, 1981.

2. For corporate taxpayers under chapter 817 who are not subchapter S corporations as defined under the code, conformity with federal law means the United States Internal Revenue Code as in effect on December 31, 1981, with the exception of the provisions of the Economic Recover Tax Act of 1981 relating to the Accelerated Cost Recovery System.

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

Mrs. Post of Owl's Head requested a roll call vote.

Mr. Higgins of Scarborough offered House Amendment "A" and moved its adoption and requested the yeas and nays.

House Amendment "A" (H-667) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: If you would look at House Amendment "A" I think it is relatively clear what I am intending to do here today.

We have discussed the three-ring circus that I alluded to yesterday surrounding this joint order asking the Taxation Committee to report out a bill that will bring our tax code into conformance with the federal tax law. My intention here today is to eliminate some of the inflexibility that was talked about yesterday and, in my opinion, from reading the order that the gentlelady has placed before us today, that is as inflexible as the other and the committee would not be able to debate and discuss the full issue of tax conformity with the federal law.

The amendment that I have presented in front of you today is one that in my opinion allows the committee some flexibility. There is nothing cast in concrete, and I would suggest to you that this affords the opportunity of full discussion from both sides and for the committee itself to make a determination with as many reports as they want that are amendable in committee and amendable on the floor of this House so that the issue that is critical to the people of the State can be discussed fully, and I would ask for its adoption.

The SPEAKER: Mr. Higgins of Scarborough has requested a roll call vote.

The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: What I would like is a chance to vote on the original order.

I have some concerns about the amendment that is being proposed. I don't really know what "reflect recent changes" is supposed to mean, but as I understand it, the order that is before us is relatively specific and we have an amendment before us now which changes that and again makes it general.

As I understand it, there was a question posed here earlier on germaneness as far as going in just the opposite direction, so I would pose a question to the Chair on whether the House Amendment is in fact germane to the original order.

The SPEAKER: Could the gentlewoman state her request on what basis the germaneness ruling is requested.

Mrs. POST: On whether the House Amendment is germane to the original order, since the original order was specific.

The SPEAKER: This matter will be tabled pending a ruling of the Chair.

(Off Record Remarks)

On motion of Mr. Kelleher of Bangor,
Adjourned to Monday, March 22, at nine o'clock in the morning.