

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

HOUSE

Friday, March 18, 1983

The House met according to adjournment and was called to order by the Speaker pro tem, Representative Gwadodsky of Fairfield.

Prayer by Reverend Herbert Pierce of Vassalboro Full Gospel Church.

The journal of yesterday was read and approved.

Papers from the Senate

Bill "An Act to Increase Public Disclosure and Accountability with Respect to Review of Hospital Budgets, to Initiate a Prospective Payment System for Medicaid, to Analyze and Approve Appropriate Payor Differentials, and to Extend the Sunset Provisions of the Health Facilities Information Disclosure Act and for Other Purposes" (Emergency) (S. P. 382) (L. D. 1174)

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

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

Bill "An Act to Rejuvenate the Fishing Industry in Maine" (S. P. 383) (L. D. 1175)

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

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

Bill "An Act to Establish a Directional Sign on Interstate 95 at the End of the Piscataqua River Bridge Indicating York and Ogunquit Exit" (S. P. 384) (L. D. 1176)

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

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

Reports of Committees**Unanimous Leave to Withdraw**

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Repeal the Nonnegotiability of Educational Policies" (S. P. 188) (L. D. 611)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Require State Certification and License for Blasters" (S. P. 253) (L. D. 798)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Eliminate Needless Employment of an Actuary to Determine Equivalency under Judicial Retirement" (S. P. 132) (L. D. 425)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Ought to Pass in New Draft

Report of the Committee on Labor on Bill "An Act to Require the Department of Labor to Make Available to All Claimants for Unemployment Insurance, the Complete Set of All Department of Labor Rules and Policies Governing the Determinations of Eligibility and Payment of Benefits" (S. P. 190) (L. D. 613) reporting "Ought to Pass" in New Draft (S. P. 387) (L. D. 1170)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-27).

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

Senate Amendment "A" was read and adopted in concurrence and the New Draft assigned for second reading Monday, March 21.

Divided Report

Majority Report of the Committee on Judi-

ciary reporting "Ought to Pass" on Bill "An Act Raising the Limit on Speeding Violations which can be Processed by the District Court Traffic Violations Bureau" (S. P. 151) (L. D. 442)

Report was signed by the following members:

Senators:

TRAFTON of Androscoggin

COLLINS of Knox

VIOLETTE of Aroostook

— of the Senate.

Representatives:

DRINKWATER of Belfast

JOYCE of Portland

HAYDEN of Durham

HOBBINS of Saco

SOULE of Westport

— 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:

REEVES of Newport

LIVESAY of Brunswick

CARRIER of Westbrook

FOSTER of Ellsworth

— of the House.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

In the House: Reports were read.

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

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

The SPEAKER pro tem: The gentleman from Portland, Mr. Joyce, moves that the Majority "Ought to Pass" Report be accepted in concurrence.

The Chair recognizes the gentlewoman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: The act raising the limit on speeding violations which can be processed by the District Court Traffic Violations Bureau, right now, up to 15 miles an hour you can go in to the violations clerk, pay the fine and you get a message from the Secretary of State saying that you have lost, say, six points. This bill would increase that from 15 miles an hour to 29 miles an hour over the speed limit. In other words, if you are going 84 in a 55 mile zone, all you have to do is go in to the violations clerk and do not have to go before the court. That would be 44 miles an hour in a school zone.

I guess I am of the feeling that anyone going 84 in a 55 mile zone or 44 in a school zone, I would like to have them have a little chit-chat with the judge. With that in mind, that is why I am against it, and I would ask for a division.

On motion of Mr. Diamond of Bangor, tabled pending the motion of Mr. Joyce of Portland to accept the Majority Report in concurrence and assigned for Monday, March 21.

Divided Report**Tabled and Assigned**

Majority Report of the Committee on Education on Bill "An Act to Increase Reimbursement for Professional Credits for Teachers" (Emergency) (S. P. 141) (L. D. 433) reporting "Ought to Pass" in New Draft (S. P. 361) (L. D. 1074)

Report was signed by the following members:

Senators:

HAYES of Penobscot

CLARK of Cumberland

— of the Senate.

Representatives:

LOCKE of Sebec

BROWN of Gorham

CROUSE of Washburn

RANDALL of East Machias

SOUCY of Kittery

MATTHEWS of Caribou

BOTT of Orono

THOMPSON 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 members:

Senator:

HICHENS of York

— of the Senate.

Representatives:

MURPHY of Kennebunk

SMALL of Bath

— of the House.

Came from the Senate with the Majority "Ought to Pass" in New Draft Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-29).

In the House: Reports were read.

Representative Locke of Sebec moved that the Majority "Ought to Pass" in New Draft Report be accepted in concurrence.

On motion of the same gentlewoman, tabled pending her motion to accept the Majority Report in concurrence and specially assigned for Tuesday, March 22.

Divided Report

Eight Members of the Committee on Marine Resources on Bill "An Act to License the Harvest of Seaweeds" (S. P. 173) (L. D. 528) report in Report "A" that the same "Ought to Pass" in New Draft (S. P. 388) (L. D. 1171)

Report was signed by the following members:

Senators:

MINKOWSKY of Androscoggin

DUTREMBLE of York

— of the Senate.

Representatives:

MITCHELL of Freeport

MELENDY of Rockland

CROWLEY of Stockton Springs

AINSWORTH of Yarmouth

VOSE of Eastport

— of the House.

Four Members of the same Committee on the same Bill report in Report "B" that the same "Ought to Pass" in New Draft (S. P. 389) (L. D. 1172)

Report was signed by the following members:

Representatives:

CONNERS of Franklin

SCARPINO of St. George

SALSBURY of Bar Harbor

HOLLOWAY of Edgecomb

— of the House.

One Member of the same Committee on the same Bill reports in Report "C" that the same "Ought Not to Pass"

Report was signed by the following member:

Senator:

SHUTE of Waldo

— of the Senate.

Came from the Senate with Report "A" "Ought to Pass" in New Draft read and accepted and the New Draft passed to be engrossed.

In the House: Reports were read.

The SPEAKER pro tem: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, I move acceptance of Report A, "Ought to Pass" in New Draft.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker and Members of the House: This bill that we had in committee is basically to license the harvesting of seaweed. This is a bill that the Department of Marine Resources would require to know exactly how much seaweed is being picked and what it is being used for. Basically, it is an en-

enforcement mechanism that will not be enforced because they can't even enforce the two-inch clam law let alone enforce who picks seaweed and who doesn't.

The rules and regulations that we have all heard so much about when we were campaigning, this is just one extra noose to put around the neck of these kids that pick seaweed along the shore to pack marine worms and for the shippers of lobsters.

As for the conservation aspect of this bill, it is already written in the Marine Resources laws that the Commissioner has the opportunity to effect any conservation mechanism of marine organisms.

I would suggest that you not vote for this bill, that you not tie people under another rule and regulation, and allow this bill to just sort of go out with the tide.

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

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I, too, will ask you today not to accept Report A, and I was a cosponsor of the original bill, L. D. 528, but shortly after I signed onto the bill, and I am sure it has happened to many of you, I was deluged by phone calls from my constituents calling me about every name you can imagine, and they were involved in various aspects of marine resource harvesting, but particularly the worm dealers. These people don't use large quantities of seaweed but they do use it, nevertheless, in packing of their product and therefore it is considered for commercial use.

The Marine Resources Committee then decided to exempt the marine worm dealers and also to further exempt the holder of retail seafood licenses, and an example of that might be a lobster shack or lobster pound or clam shack or something of that type.

It occurs to me that in a good-faith effort to eliminate clambers and lobster dealers and oyster harvesters and marine worm dealers, that we have practically eliminated everyone except that handful of people that do use the large quantities of seafood, and it was very apparent to me at the hearing that these people were more than willing to report to the Department of Marine Resources for conservation purposes. For example, the Department of Conservation uses a mandatory reporting procedure for sunfish, and I feel at this time it is unnecessary and unjustified to require a permit from these people when the failure to do so is subject under penalty of the law.

The SPEAKER pro tem: The Chair recognizes the gentleman from St. George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker and Members of the House: I, too, was one of the original cosponsors of this bill in its original form. All I can say about that is, they caught me when I was young and foolish and if I had had a little more wisdom about laws and how they are written, I wouldn't have cosponsored it.

This bill creates many problems. In its initial proposal, the department said they needed the information for a longitudinal study to find out whether we have to promulgate regulations to control it or protect the resource.

If you look at this, what it is asking people to do, it is asking people to do the department a favor, to report how much seaweed they harvest, whether they harvest it and when they harvest it, and then after they ask this individual to do them a favor, they then charge them for doing the favor.

Other than that, it creates tremendous problems in the marine industry. The way this is written, anyone that uses seaweed for commercial purposes has to hold one of these licenses or permits. And while other people are talking about the kids that harvest the seaweed for the worm dealers, and the very few commercial harvesters we have in the state, what they are ignoring is the fact that practically every lobster fisherman in the State of Maine uses seaweed as a means to insulate his

catch before he brings them in, in the summer particularly. Clam diggers do the same thing. So instead of talking about a small number of permits or licenses, there is somewhere between nine and ten thousand licensed lobster fishermen and last year there were 3,700 licensed clam diggers. So instead of a few licenses, we are talking about thousands of licenses.

There is also the consideration that the Department of Marine Resources, in testimony at the hearing, stated that they allocated the funds out of their existing appropriation to fund this research and that there was no need for additional funds, but the bill, nonetheless, comes through with a funding request on it. I don't see any need or purpose for it, especially when, as Representative Cahill already mentioned, the department has the regulatory power to do this anyway.

Because of the problems it will create with the industry, because of the problems of enforcement and because, in my opinion, of the total lack of need for this to be legislated, I would request that we support the "ought not to pass" report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker and Members of the House: Some of the things we have been hearing we have cleared up in the rewrite of this bill under the new L. D. 1171. Seaweed is a natural resource. The Department of Marine Resources would like to get together with the Bigelow Lab and the Dowling Labs and then continue studying the uses and abuses of seaweed because it is an important natural resource and the demand for it is increasing tremendously. It is also a habitat for many fish and shellfish species.

We, the State of Maine, must protect the beds of seaweed for they are vulnerable to careless harvesting. In some areas of the country and world they are harvesting seaweed now with machinery. This will hit Maine someday too, perhaps, and we must learn all we can, and that is all the department wants to do, learn what they can about who is harvesting and how much they are harvesting.

In recent years in Maine, the rockweed has been harvested to be processed for liquid fertilizer, for cattle fodder supplement, for garden fertilizer. The largest of our seaweed, the kelp, has been viewed as a potential raw material for methane production, cattle food, alcohol production, ethnic foods. Seaweed is used to pack marine bait worms. We have solved that problem in the bill, if you will read it. Kelp is sold at Shaw's Supermarket here in town as a health food. This isn't a trivial matter, I don't believe.

Requiring a permit for seafood harvesting is one way we can learn what is being harvested, from which part of the coast, in what volume. It is one step that could lead to the management plans for the species that is most vulnerable.

We have only an inkling of the use of commercial and ecological significance of the seaweed that are being harvested in Maine. A major processor has said that his production would double in the next two years, from 1500 metric tons to 3000 metric tons. One harvester and wholesaler of valuable edible seaweed said that his industry is very small; however, ten years ago he knew of only one or two harvesters and now there are at least ten right in his area. He is concerned about what the increased harvesting pressure could do to his livelihood. We cannot help him or others unless we can learn more about their numbers and their fisheries. This permit is a first step in information gathering and a potential element in management.

This will not affect the incidental usage of seaweed. For example, if you want to get seaweed to fertilize your garden, your flower garden or vegetable garden, this bill in no way

touches that, it is just the commercial users of seaweed.

The holder of a seaweed permit may take seaweed or possess, ship, transport or sell seaweed that he has harvested for commercial purposes. The holder of a wholesale seafood license, marine worm dealer license, will not have to pay an additional fee. This is right in the bill.

The fee we set as a token fee, and it shall be \$3 for a resident and \$1 supplement fee permit. For example, if a college student were hired for the summer to gather seaweed and make four or five dollars an hour, he would have to pay one dollar for his summer permit. The reason for this is simply for them to get a handle on the reports from these various people that are going to be harvesting the seaweed. It is very important that the State of Maine get a handle on the commercial use of this extremely important natural resource.

I hope you will support the Marine Resources Committee Majority "Ought to Pass."

The SPEAKER pro tem: The Chair recognizes the gentleman from St. George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker and Members of the House: A couple responses to the gentleman from Stockton Springs. First, while the basis of everything he said is correct, he failed to address the issue that the department already has the regulatory authority to do all of this.

The second fact is, he brought up the mechanical harvesting of kelps which is currently going on on the west coast. The nature of the kelp, the type of kelp we have here, the way it grows, makes the likelihood of that mechanical harvesting very unlikely. The dealers he was talking about that are currently harvesting and processing and selling it as food, the gentleman that was in front of us said that he harvested approximately 300 pounds dry weight of seaweed. There are only two other major harvesters; one was the one that brought out the 1500 metric ton, and the other one is Marine Colloids of Rockland, which harvests seamoss which is already required by licensing.

This bill also doesn't address the additional licensing need and permit for approximately 13,000 lobstermen and clam diggers. It also ignores the fact that many of the draggers use seaweed to keep their fish cool and protect them in the summer from going bad before they can get them into port. Once again, this is not a minor thing that would require just a few licenses. You are talking about a major expense. You are talking about something that the department already has regulatory authority to do, and it just appears to me to be both useless and needless legislation.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Edgcomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker, Ladies and Gentlemen of the House: We are forgetting the most important part of this entire thing. Even after the license is given out, there is no mandatory reporting form on that license. We asked the department if they would have—because I was willing to go along with the permit without a fee—if there would be a mandatory reporting attached to the license so that they would get a handle on where this was being used and how much was being picked, but it is not there and it is not in the bill. There is no mandatory reporting in this bill at all.

The SPEAKER pro tem: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker and Members of the House: In answer to that, the Commissioner of Marine Resources asked us to put this bill in so that they could get a handle on it. They have the ability to put on the license, attached to it, this permit and in return the various peo-

ple with permits will return them eventually to the State department so they can use the information for researching and for other scientific purposes. This is the way they are going to get a handle on it. Today they don't know who is harvesting. They know the few people in their area that are harvesting seaweed, they don't know who is harvesting seaweed in Washington County, and there are also people in the other counties, for example in Waldo County and Hancock County that are also doing this.

I have been on the clam flats manytimes, I have seen them and worked with them, I have been on lobster fishing boats, and I don't think I have ever seen them shipping lobster yet with seaweed and I have never seen them shipping clams with seaweed. I know they use it in the marine worm business, and we have covered that in the law.

I think this is a good law and we should give them a chance to protect this natural resource.

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

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: Just one point. While this bill, the new draft of this bill, did attempt, or it did in fact exempt those with wholesale seafood licenses, it did not exempt those holding a retail seafood license, and please allow me to read—it says, the holder of a retail seafood license may, in the retail trade, within the limits of this state, buy, sell, transport, ship or serve shellstock or lobsters, shucked shellfish and lobster parts. But my point here is, if you owned a little seafood restaurant on the coast and you went out and picked a couple bushels of seaweed to perhaps cook your lobsters or clams in, you would be required under this law to hold a seafood license.

Now, the intent of this law, the intent of the department, I don't believe, was ever to get at these people. They needed to get at the big people that harvest the large quantities of seaweed and not the little guy. It was very apparent to me that those people were willing to report under a mandatory filing procedure and therefore making this bill absolutely, in my opinion, unnecessary, and I would request a roll call.

The SPEAKER pro tem: 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 yes; those opposed will vote no.

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

The SPEAKER pro tem: The pending question is on the motion of Mr. Crowley of Stockton Springs that Report A, "Ought to Pass" in New Draft be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bost, Brodeur, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Jacques, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Reeves, P.; Richard, Ridley, Rolde, Rotondi, Soucy, Stevens, Swazey, Tamaro, Theriault, Vose.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Conary, Connors, Curtis, Davis, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kies-

man, Lebowitz, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McPherson, Murphy, Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salisbury, Scarpino, Seavey, Small, Smith, C.W.; Sproul, Stevenson, Stover, Telow, Thompson, Walker, Webster, Wentworth, Weymouth, Zirkilton.

ABSENT—Benoit, Brannigan, Brown, A.K.; Carrier, Day, Dudley, Gwadosky, Hobbins, Jalbert, Lewis, Mahany, McCollister, Moholland, Paul, Roberts, Sherburne, Smith, C.B.; Soule, Strout, Studley, Tuttle, Willey, The Speaker.

Yes, 74; No, 54; Absent, 23.

The SPEAKER pro tem: Seventy-four having voted in the affirmative and fifty-four in the negative, with twenty-three being absent, the motion does prevail.

Thereupon, the New Draft was read once and assigned for second reading the next legislative day.

Petitions, Bills and Resolves Requiring Reference

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Bill "An Act to Provide Advocacy Services to Residents of Children's Homes" (H. P. 970) (Presented by Representative Murray of Bangor) (Cosponsors: Representatives Lisnik of Presque Isle, Nadeau of Lewiston and Senator Clark of Cumberland)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Relating to Child Support" (H. P. 971) (Presented by Representative Benoit of South Portland) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Representative McSweeney of Old Orchard Beach, it was

ORDERED, that Representative Sharon B. Benoit of South Portland be excused March 14, 15 and 16th for personal reasons.

Special Sentiment Calendar

Recognizing:

Leonard Levasseur, of Biddeford, a former York County Commissioner and member of the Governor's Committee for Employment of the Handicapped for York County; (HLS 234) by Representative Lehoux of Biddeford. (Cosponsors: Senator Dutremble of York, Representatives Norton of Biddeford and Racine of Biddeford)

Under suspension of the rules, the Resolution was read.

The SPEAKER pro tem: The Chair recognizes the gentleman from Biddeford, Mr. Lehoux.

Mr. LEHOUX: Mr. Speaker, Ladies and Gentlemen of the House: Leonard Levasseur, 68 years old, of 80 Granite Street in Biddeford, died March 10th at the Webber Hospital after a long illness. He was born in St. Leonard, New Brunswick on March 1, 1915, the son of Pierre and Helen Cyr Levasseur, and attended schools in St. Leonard.

Levasseur was a resident of Biddeford since 1939 and was foreman of the South Portland Naval Shipyard during World War II. Also, for years he owned and operated a grocery store on Granite Street. He was a York County Commissioner from 1966 to 1972, and he was appointed by Governor Curtis to the Governor's Committee for the Employment of the Handicapped for York County. He served as Treasurer of the York County Community Action for five years and was a past member of St. Andre's Paris Council and St. Andre's Social

Action program.

Levasseur was also a charter member of the York County Counselling and Southern Maine Comprehensive Health Association. He was a member of the United States and Maine Rehabilitation Association, a charter member of the York/Cumberland Counties Housing Association, a member of the Waban Association for mentally retarded children, also a past president of St. Andre's Federal Credit Union and its supervisory auditor for 15 years, a member of the Biddeford/Saco Elks Lodge and Chagnon Council of St. Jean de Baptiste, and a member and past Grand Knight of the Knights of Columbus, 4th Degree. He was a communicant of St. Andre's Church and an active member of numerous Franco-American and religious organizations.

He is survived by his wife, Marielle, and daughter, Mrs. Monica Crepeau of Biddeford.

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

House Reports of Committees Unanimous Leave to Withdraw

Representative Joyce from the Committee on Judiciary on Bill "An Act to Make Jury Duty Optional for Persons over 65 Years of Age" (H. P. 656) (L. D. 830) reporting "Leave to Withdraw"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Refer to the Committee on Taxation

Tabled and Assigned

Representative Cox from the Committee on Legal Affairs on Bill "An Act to Amend the Charter of St. Mark's Home in Augusta" (H. P. 486) (L. D. 583) reporting that it be "Referred to the Committee on Taxation"

Report was read.

On motion of Mrs. Mitchell of Vassalboro, tabled pending acceptance of the Committee Report and assigned for Monday, March 21.

Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Clarify and Improve upon the Purposes of the Probationary Period in the Employment of Teachers" (H. P. 574) (L. D. 722)

Report was signed by the following members:

Senators:

HAYES of Penobscot

HICHENS of York

CLARK of Cumberland

— of the Senate.

Representatives:

LOCKE of Sebec

THOMPSON of South Portland

MATTHEWS of Caribou

CROUSE of Washburn

RANDALL of East Machias

— of the House.

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

Report was signed by the following members:

Representatives:

MURPHY of Kennebunk

SOUCY of Kittery

SMALL of Bath

BOTT of Orono

— of the House.

Reports were read.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, I move the Majority "Ought Not to Pass" Report and wish to speak to my motion.

The SPEAKER pro tem: The gentlewoman from Sebec, Mrs. Locke, moves that the Majority "Ought Not to Pass" Report be accepted.

The gentlewoman may proceed.

Mrs. LOCKE: Mr. Speaker, Men and Women

of the House: This bill, L. D. 722, would extend the probationary period for teachers from two years, as it is presently, to three years upon the written request of the teacher and on mutually agreement between the teacher and the school committee, or directors.

After careful study by the Education Committee, a majority of the members signed the bill "Ought Not to Pass" for several reasons, the main one being that if a probationary teacher hasn't shown that he or she isn't a good teacher after two years on the job, that person should be let go. We do not feel that students should serve as a training ground for certified teachers, that training should have taken place before graduation, and if we don't feel that enough time is allotted presently to student teaching, then perhaps an internship should be considered or included in teacher education.

In most professions, a six months' probationary period is standard procedure. Teachers now have two years to prove their worth; they should not be practicing for three years on students that are depending on them for their education.

The SPEAKER pro tem: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Where I come from, ladies and gentlemen, two years is 24 months. A teacher doesn't have two years to prove themselves. Let's lay it on the line, if we are going to talk about two years, we are going to talk about 24 months, we are not talking about two school years, we are talking about 24 months.

I happened to have had an experience years ago in my community when I was on the school board, we had a teacher who had a few problems in the first year of teaching and had we listened to the superintendent, at the beginning of her second year we would have terminated her services. This teacher survived this problem, went on and taught 30 years in the system. She became one of our outstanding teachers. Why? Because we felt that this teacher deserved the opportunity. An opportunity in America is not designed just for those who have the money and have the pull, opportunity is for everybody. The educational system should practice what it preaches. Where I come from, two years is 24 months.

I would also like to tell you that many of our teachers, when first teaching, sometimes they don't always get the best class, sometimes you have an exceptional class coming along and that particular class has been a problem all the way through the system. I know of teachers who have been teaching for many years that had to take a leave of absence after having such a class go through their classroom. Teachers are not just teaching now, they are baby sitting, they are doing everything for the children.

Let's be right out front here today and just say that if a teacher wants to negotiate with the superintendent and the superintendent is agreeable, then that teacher shall have the opportunity of one more year. That is all I am asking. If you want to be hard hearted, you could say, I'm not going to do it, let them go through the cracks in the floor, forget them, but I believe that when a person goes and studies to be a teacher, that they deserve the opportunity of negotiating with the superintendent and the superintendent and if the person agrees then that person would have the opportunity of that third year. That is all we are asking for. Just give them a chance to prove themselves. Don't tell me they are going to do great harm to these students because I don't buy that philosophy at all. I am sure the superintendent will use his discretion when he extends this to a teacher and I am sure that if that teacher has a heart, that teacher will not ask to stay on in the system if she doesn't deserve to.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Washington, Mrs. Allen.

Mrs. ALLEN: Mr. Speaker, Men and Women of the House: In June, I left my classroom and in December I entered this House and as a former teacher I feel very strongly about this issue. Two points: First, the difference between a probationary teacher and a continuing contract teacher, a probationary teacher is not entitled to a meeting when his or her contract is not renewed; he or she does not have to receive any prior notice or be given any reasons, whereas a tenure teacher or a continuing contract teacher is entitled to six months' notice, written reasons and a hearing. If covered by a negotiated just cause provision for non-renewal, that teacher is also entitled to re-course through the grievance procedure, so there is a big difference between a probationary teacher and a continuing contract teacher.

Our collective bargaining laws require that all employment contracts be between the school committee and a legal bargaining agent. This bill would provide for a mutual written agreement between the teacher and the school committee.

I submit to this House that this bill is not in the best interest of teachers, and I would urge you today to accept the Majority "Ought Not to Pass" Report.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from South Portland, Ms. Thompson.

Ms. THOMPSON: Mr. Speaker, Men and Women of the House: We often wear different hats. I am a former teacher, that was one hat I wore; all of us here are legislators, we wear that hat, but now I suppose all of us would wear the hat of being a parent or a grandparent, and it is from that point of view that I would like to address this bill.

The bill basically says that if a teacher who has been in a school system for two years would like to have another year to prove whether or not they in fact are competent, that is what this bill would do.

I want to read to you some of the testimony that came before our committee and I want you to notice, please, that from none of the educational constituencies, either Maine School Management, Maine Teachers Association, the Department of Educational and Cultural Services, from none of those testifying of those groups did anyone say anything about how this bill would help or hurt children in the schools.

One word of testimony from Maine School Management: "This bill applies to a teacher whose performance is questionable." I asked, how about the children in the classroom of that teacher whose performance is questionable for a two-year period?

Another quote: "Teachers are not coming out of college as good teachers with the potential for being good teachers." This was from a superintendent testifying. Well I asked, how many of us would send our children or our grandchildren to a doctor who has the "potential" for being a good doctor?

The schools should not be hiring personnel who have merely the potential for being good teachers. High quality should be proven in their performance in college and in the training that that college education provides. If that, indeed, is not adequate, then we certainly should examine our system that produces our teachers.

Another quote: Maine School Superintendents Association Executive Director agrees that new teachers need to have more experience with kids before they are employed in school. Yet, the bill contradicts that in allowing the public schools to be a training grounds for inadequately trained teachers. Over three years, approximately 100 kindergarten five-year-olds are exposed to this person who has the potential but whose adequacy as a teacher is still questionable.

Another quote: "The bill has an advantage for teachers and administrators; in fact, the

bill may benefit teachers more." On the one hand we did not hear from any teachers who felt they would benefit from this bill, and I asked, how about the children who are exposed to this person who has not shown their competence as a teacher for that two-year probationary period that currently stands?

In two years, an elementary teacher deals with approximately 60 to 70 children; in two years, a secondary teacher deals with approximately 300 to 400 children. Are we to say that even more children should be under the care of this teacher of questionable performance for even a third year?

Another quote: "Teachers will like it; it gives teachers the opportunity for more time to prove their competence." I asked, how about the kids? Maine School Management, Maine Teachers Association, the Department of Education and Cultural Services, in all of their testimony not one person mentioned what value this would have for children. It is our responsibility as legislators and parents to make sure that the public's interest is served.

The bill is bad, it is not good for children, it is not good for education. I urge you to support the "Ought Not to Pass" Report.

The SPEAKER pro tem: The Chair will order a vote. The pending question before the House is on the motion of the gentlewoman from Sebec, Mrs. Locke, that the Majority "Ought Not to Pass" Report be accepted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 32 in the negative, the motion did prevail.

Sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-71) on Bill "An Act to Provide for Leaves of Absence for Employees Elected to the Legislature, Excluding Employees Covered under Provisions Dealing with Teachers" (H. P. 349) (L. D. 597)

Report was signed by the following members:

Senators:

DUTREMBLE of York
HAYES of Penobscot

— of the Senate.

Representatives:

BONNEY of Falmouth
NORTON of Biddeford
SWAZEY of Bucksport
ZIRNKILTON of Mount Desert
WILLEY of Hampden
TAMMARO of Baileyville
BEAULIEU of Portland
TUTTLE of Sanford
LEWIS of Auburn
GAUVREAU of Lewiston

— of the House.

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

Report was signed by the following member:

Senator: SEWALL of Lincoln

— of the Senate.

Reports were read.

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

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Biddeford, Mr. Racine.

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair. Is this the same bill that was defeated in the 110th, and if it is not, what is the difference between this bill and the other one that was defeated?

The SPEAKER pro tem: The gentleman from Biddeford, Mr. Racine, has posed a question through the Chair to anyone who may care to respond.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the gentleman's question is yes, this is the same bill that was defeated in the last session. The major difference this time is that the committee took more time and did a better job in drafting the bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Biddeford, Mr. Racine.

Mr. RACINE: Mr. Speaker, I would request a division.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding from talking with several people that this bill is a little different than the bill that we have had in the previous session. As I understand it, and I was going to pose a question earlier and I talked with the good gentlelady from Portland, Mrs. Beaulieu, but as I understand it, an employer has the right to refuse to allow an employee to serve in the legislature. Once they make the request, they have a certain amount of time to appeal the employer's decision if it is negative; in other words, if I go to my employer and say, may I serve in the legislature and they say no, you cannot, I have the opportunity to appeal that decision.

The employer can refuse my request for good reason or just cause or something, I am not sure of the exact wording, but my concern is, I guess, and the question I have is, if the employer refuses my request, under what circumstances can he or she do so and what sort of a process do I go through as an employee to try to get that overturned?

The SPEAKER pro tem: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to anyone who may care to respond.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Even in the last session we had an appeal procedure, so it is not new, Representative Higgins, and in the appeal procedure an attempt was made to hammer it out. I don't think we even went to a Committee of Conference.

But right to the appeal procedure in the bill is Section 824, so if an employer refuses to allow it, and if the employee appeals, the employer then has an appeal process and he offers written notice of appeal to the Chair of the State Board of Arbitration and Conciliation, that would be the board the employer would use to file his appeal.

The decision then is not limited to, but on the second page of the L. D. as written, there are four or five sets here and for the record I will read them: While the listener of the case of the employer is not limited to some of the issues they have to take into context are (a) the length of time the employee has been employed by the employer; (b) the number of employees in the employer's business; (c) the nature of the employer's business; (d) the nature of the position held by that employee and the ease or difficulty and cost of temporarily filling that position during the leave of absence, and finally (e) any agreement entered into between the employee and the employer as a condition of employment. Those would be the basic appeal issues that an employer could bring, even though he is not limited to that.

On your printed bill, there is a section under "Exception No. 3," that has to be disregarded because that has been taken care of through the amendment process and what it says is that an employer who employs five or fewer persons would not come under this provision at all. In other words, no employee, even if they requested, they would automatically be denied, they would be preempted from running.

The SPEAKER pro tem: The Chair will order a vote. The pending question before the House is on the motion of the gentlewoman from Port-

land, Mrs. Beaulieu, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

80 having voted in the affirmative and 21 in the negative, the motion did prevail.

Thereupon, the Bill was read once.

Committee Amendment "A" (H-71) was read by the Clerk and adopted and the Bill assigned for Second Reading Monday, March 21st.

Consent Calendar

First Day

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

(S. P. 126) (L. D. 313) Bill "An Act Concerning Persons Who Assist in Mitigating the Effects of Discharge of Hazardous Materials"—Committee on Energy and Natural Resources reporting "Ought to Pass"

(S. P. 149) (L. D. 440) Bill "An Act to Enable Administrative Court Judges to Sit in Superior Court"—Committee on Judiciary reporting "Ought to Pass"

(S. P. 236) (L. D. 678) Bill "An Act Concerning Appeals by the State in Criminal Cases"—Committee on Judiciary reporting "Ought to Pass"

(S. P. 164) (L. D. 519) Bill "An Act to Clarify the Definition of Chiropractic"—Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-25)

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 21, 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:

(H. P. 506) (L. D. 604) Bill "An Act to Increase the Penalty for Nonpayment of Reportable Wages under the Unemployment Compensation Laws" (C. "A" H-67)

(H. P. 693) (L. D. 882) Bill "An Act to Amend the Fraud Provisions of the Maine State Retirement System Statutes"

(H. P. 666) (L. D. 849) Bill "An Act to Strengthen the Enforcement of the Collection Agency Law"

(H. P. 263) (L. D. 323) Bill "An Act to Provide Consistency in the Filing of Mechanics' Liens" (C. "A" H-72)

(H. P. 154) (L. D. 179) Bill "An Act to Amend the Maine Statutes to Provide for the Sale of Kerosene or Similar Illuminating or Fuel Oils which Flash under 100 degrees Fahrenheit, Open Cup Test" (C. "A" H-73)

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

Passed to Be Engrossed

Bill "An Act Concerning the Use of Purse Seines in Washington County" (H. P. 944) (L. D. 1214)

Bill "An Act Limiting the Cost of Local Pay Telephone Calls" (H. P. 943) (L. D. 1213)

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

Second Reader

Tabled and Assigned

Bill "An Act Relating to Attorneys Searching and Certifying Title to Real Estate" (H. P. 969) (L. D. 1225)

Was reported by the Committee on Bills in the Second Reading and read the second time.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I spoke with the House Chair of this Committee yesterday and indicated to him that I might possibly want to try to amend this bill on the floor of the House. He is not here today, so I wish someone would table this for one day if it is possible so that I might talk to him about it.

On motion of Mr. Racine of Biddeford, tabled pending passage to be engrossed and assigned for Monday, March 21.

Passed to Be Enacted Emergency Measure

An Act to Amend the Consumer Credit Code Regarding Mobile Homes (S. P. 366) (L. D. 1121)

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. 117 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.

Emergency Measure

An Act Relating to the State Harness Racing Commission (H. P. 439) (L. D. 532) (H. "B" H-58)

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. 117 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.

Emergency Measure Tabled and Assigned

An Act to Adjust the Service Fee and Allocations of the Low-Level Waste Siting Fund, and to Adjust the Membership of the Low-Level Waste Siting Commission (H. P. 568) (L. D. 663) (H. "A" H-48 and S. "B" S-22 to C. "A" H-41)

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

Mr. Kelleher of Bangor requested a roll call.

The SPEAKER pro tem: 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.

On motion of Mr. Hall of Sangerville, tabled pending passage to be enacted and assigned for Monday, March 21.

Emergency Measure

An Act to Increase the Sardine Inspection Tax (H. P. 869) (L. D. 1117)

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I would like to pose a question through the Chair. I am just curious how much money that it is going to raise. I don't see any dollar figure on how much money will be raised through the tax and could somebody explain this to me, please?

The SPEAKER pro tem: The gentleman from Farmington, Mr. Webster, has posed a question through the Chair to anyone who may care to respond.

The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: This money that is raised through the Sardine Inspection Tax is raised by the sardine companies and it is used by the sardine companies to pay the inspectors, the state inspectors, from the Department of Agriculture.

The SPEAKER pro tem: The Chair recognizes the gentleman from St. George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: It is nice to agree with my colleague from Stockton Springs at least once today.

This bill primarily provides the funds to provide the inspector in the sardine industry to maintain quality. It is, in effect, a voluntary tax that the sardine plants themselves have self-imposed to provide these funds to make sure that their quality for Maine is good throughout the state and aids in the sale. It is a good idea, everybody is in support of it, I recommend its passage.

The SPEAKER pro tem: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I am not talking in opposition to the bill, I am just curious why we don't have a fiscal note on it and that is what I am wondering — how much is this going to cost? There is no fiscal note attached to this bill and that is why I am curious.

The SPEAKER pro tem: The Chair would respond, first of all, to the gentleman from Farmington, Mr. Webster, in response to his question about a fiscal note on this bill, it is a dedicated account, the money isn't going into the General Fund; therefore, this does not require a fiscal note.

This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of same and one against, and according the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Concerning Fees Charged by Sheriffs and Deputies for Service of Certain Documents (S. P. 117) (L. D. 295) (C. "A" S-16)

An Act to Establish an Annual Maine Clean Water Week (S. P. 142) (L. D. 434)

An Act to Permit Real Estate Agents to be Considered Independent Contractors for Purposes of Workers' Compensation Insurance (H. P. 572) (L. D. 720) (C. "A" H-52)

An Act Relating to Powers of the Board of Trustees of the Maine Maritime Academy and to Authorize Conferral of the Master of Science Degree in Maritime Management (H. P. 541) (L. D. 734)

An Act Relating to the Use of Assumed Names by Corporations (H. P. 870) (L. D. 1118)

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:

SENATE REPORT—"Refer to the Committee on Labor" Committee on Local and County Government on Bill "An Act to Prohibit Residency Requirements for Municipal Employees" (S. P. 61) (L. D. 167)

Tabled—March 17, 1983 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

On motion of Mrs. Mitchell of Vassalboro, retabled pending acceptance of the Committee Report in concurrence and assigned for Monday, March 21.

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

HOUSE REPORT—"Refer to the Committee on Health and Institutional Services" Committee on Appropriations and Financial Affairs on Bill "An Act to Establish Funding for Program of Preventive Intervention and Family Support" (H. P. 532) (L. D. 685)

Tabled—March 17, 1983 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

On motion of Mrs. Mitchell of Vassalboro, re-

tabled pending acceptance of the Committee Report and assigned for Monday, March 21.

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

SENATE REPORT—"Refer to the Committee on Business Legislation" Committee on Legal Affairs on Bill "An Act to Provide for the Use of Major Credit Cards at Selected State Liquor Stores" (S. P. 160) (L. D. 448)

Tabled—March 17, 1983 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

On motion of Mrs. Mitchell of Vassalboro, tabled pending acceptance of the Committee Report in concurrence and assigned for Monday, March 21.

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

Bill "An Act to Permit Arrests for Drinking Alcoholic Beverages in a Stationary Motor Vehicle" (H. P. 967)

Tabled—March 17, 1983 by Representative Cox of Brewer.

Pending—Motion of Representative Carroll of Limerick to Refer to Committee on Judiciary.

On motion of Mr. Cox of Brewer, retabled pending the motion of Mr. Carroll of Limerick to Refer to the Committee on Judiciary and assigned for Monday, March 21.

On motion of Mr. Matthews of Winslow,

Adjourned until Monday, March 21, at nine o'clock in the morning, in memory of Leonard Levasseur of Biddeford.