

# 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 Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

INDEX

**Senate Confirmation Session**

June 14, 1978

INDEX

**First Special Session**

September 6, 1978 — September 15, 1978

INDEX

**Second Special Session**

October 18, 1978

INDEX

**Third Special Session**

December 6, 1978

INDEX

APPENDIX

Flanagan, Fowlie, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hall, Henderson, Hickey, Huber, Hughes, Immonen, Jacques, Jalbert, Jensen, Kany, Kelleher, Kerry, Kilcoyne, Laffin, Lizotte, Locke, Lougee, Lynch, MacEachern, Mahany, Marshall, Maxwell, McHenry, McKean, McPherson, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paul, Pearson, Peltier, Plourde, Post, Prescott, Quinn, Rideout, Rollins, Spencer, Sprowl, Stover, Strout, Stubbs, Talbot, Tarbell, Teague, Theriault, Tierney, Tozier, Trafion, Truman, Twitchell, Valentine, Violette, Whittemore, Wood, Wyman, The Speaker.

ABSENT: Bennett, Hobbins, Howe, Jackson, Joyce, LaPlante, Lunt, McMahon, Mills, Moody, Palmer, Peakes, Tyndale, Wilfong.

Yes, 35; No, 102; Absent 14.

The SPEAKER: Thirty-five having voted in the affirmative and one hundred two in the negative, with fourteen being absent, the motion does not prevail.

Thereupon, the Report was accepted, the Bill read once and assigned for second reading tomorrow.

#### (House at Ease)

Called to order by the Speaker

(H. P. 1947) (L. D. 2026) RESOLVE, Authorizing Cumberland County to Pay Deficits from Unappropriated Surplus (Emergency) (C. "A" H-1029)

(H. P. 1942) (L. D. 2108) Bill, "An Act to Revise the Salaries of Certain County Officers" (C. "A" H-1030)

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

(H. P. 1886) (L. D. 1943) RESOLUTION, Proposing an Amendment to the Constitution to Grant to the Supreme Judicial Court the Power to Remove a Judicial Officer from Office.

On the objection of Mr. Gray of Rockland, was removed from the Consent Calendar.

Thereupon, the Report was Accepted, the Resolution read once and assigned for second reading tomorrow.

(H. P. 1900) (L. D. 1957) Bill, "An Act to Authorize the Supreme Judicial Court to Establish by Rule a Committee on Judicial Responsibility and Disability"

On the objection of Ms. Clark of Freeport, was removed from the Consent Calendar.

Thereupon, the Report was accepted, the Bill read once and assigned for second reading tomorrow.

#### Tabled and Assigned

(H. P. 1935) (L. D. 2006) Bill, "An Act to Clarify Certain Definitions under the Subdivision Law and to Set Out the Intent of the Legislature in Enacting that Law" (C. "A" H-1032)

On the objection of Mr. Silsby of Ellsworth, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1032) was read by the Clerk.

On motion of Mr. Blodgett of Waldoboro, tabled pending adoption of Committee Amendment "A" and tomorrow assigned.

(H. P. 1931) (L. D. 2002) Bill, "An Act to Simplify the Procedure for Submission of Certain Small Claims Against the State" (C. "A" H-1033)

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

#### Later Today Assigned

Bill, "An Act to Prohibit Child Pornography" (H. P. 2106) (L. D. 2141)

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

On motion of Mr. Spencer of Standish, tabled pending passage to be engrossed and later today assigned.

#### Passed to Be Enacted

##### Emergency Measure

An Act to Exempt the Industrial Accident Commission From the Administrative Procedure Act (S. P. 644) (L. D. 2011) (C. "A" S-457)

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

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

Mr. MORTON: Mr. Speaker, I would like to pose a question through the Chair. May we have a brief explanation of why this is felt to be necessary?

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

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: What this is, it is a moving along procedure. We have situations that happen where they are overburdened by this type of work having claims put in so, consequently, what will happen is that it will just move the procedure along.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Men and Women of the House: The bill that you see before you today has to do with the Industrial Accident Commission and its relationship to the Administrative Procedures Act. Those people who were deeply involved with the establishment and passage of the Administrative Procedures Act here. Of course, spotted this bill immediately and were very concerned that what you would see from every agency in state government is a move to have special interest exclusion from the Administrative Procedures Act. That was not the intent of the Special Select Committee on Workers Compensation. The fact was that the provisions of the Administrative Procedures Act do not need to apply to certain procedures of the Industrial Accident Commission so the Attorney General, who worked on the Administrative Procedures Act, those members of the Committee on State Government, who had particular personal interest in the Administrative Procedures Act, attended all the hearings on this bill. They are completely satisfied and they will probably tell you so themselves if I sit down, and it is necessary that they are in favor of passage of this bill.

We do not want to have the hearing procedures subject to the Administrative Procedures Act. The reason for that is the consumer who is to be protected, in this case it is the worker, the worker is represented by counsel and you do not have an agency head hearing cases; you will have, in effect, a judge; namely, an industrial accident commissioner. So what is waived in this Administrative Procedures Act amendment is purely the procedures which relate to the hearing. What is not waived and this is the important part, and this is what the Administrative Procedures people were worried about, any promulgation of rules and regulations. That must go through the procedures of the Administrative Procedures Act.

If there are any other questions, I hope that I or other members of the Special Select Committee on Worker's Compensation would be able to answer them. I hope this bill receives passage today.

The SPEAKER: The pending question before the House is on passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected to the House is necessary.

118 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 to Provide for the Payment of Costs for Relocating Utility Facilities in an Urban Renewal Area" (H. P. 2072) (L. D. 2131)

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

#### Passed to Be Enacted

"An Act to Clarify the Law Concerning the Posting of Bonds by Electric Companies with the Department of Environmental Protection for Certain Licenses or Permits" (H. P. 1925) (L. D. 1986) (S. "A" S-452 to C. "A" H-986)

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

#### Orders of the Day

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

House Divided Report — Majority (7) "Ought to Pass" in New Draft under New Title, RESOLVE, Authorizing Certain Employees of the State of Maine to Request an Extension of Employment After Their Mandatory Retirement Age, Years of Service Requirement or Age and Years of Service Requirement (Emergency) (H. P. 2101) (L. D. 2140) — Minority (6) "Ought Not to Pass" — Committee on Human Resources on Bill "An Act to Revise the Effective Date of the Act which Prohibits the Practice of Mandatory Retirement Age" (Emergency) (H. P. 1985) (L. D. 2068)

Tabled — February 14, 1978 by Mr. Talbot of Portland.

Pending — Motion of the same gentleman to Accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sproul.

Mr. SPROUL: Mr. Speaker, I would ask for a Division on the pending motion.

Unless this Resolve is amended, the Resolve goes beyond the intention of the committee and of my intent as sponsor.

I guess I will have to debate the bill and hopefully after that, we can amend it.

We passed the elimination of the mandatory retirement age in the last session of the legislature and that goes into effect July 1st of this year. I have a constituent in my area who became 60 years old since the first of the year and does not want to retire.

He notified the department that he works for, the Department of Inland Fisheries and Game, that he did want to continue in service and worked with them up until the first of the year and was then told that there was no way they could keep him on, that he would have to have the laws changed, so at that point, he came to me to find out if I could do anything for him. I went to his department and they said that there was nothing they could do as far as keeping him on and that the laws would have to be changed. I then went to the Personnel Department and there was nothing they could do — have to change the law. I went to the Governor's Office, he contacted the Attorney General's Office, they researched the law and came back with the same finding, that the laws would have to be changed. So that, in essence, is the substance of the bill.

The original bill would have changed the effective mandatory retirement date from July 1 back to January 1. However, the committee wanted to help this one individual but felt that the dates that were set should not be changed so the majority of the committee passed a spe-