

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

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

## HOUSE

Wednesday, April 11, 1979

The House met according to adjournment and was called to order by the Speaker pro tem. Representative Elias of Madison.

Prayer by Sister R. Mildred Barker of the United Society of Shakers, Sabbathday Lake.

Sister BARKER: Eternal Father, strong to save. Eternal Mother, strong to love, send your spirit upon us. Fill us that we may in some small way share in your essence which is all love and wisdom. Direct those of us who have been chosen to represent your people in paths of ever greater service, ever reminding us that those who serve are always called to meekness and the recognition to serve truly is to be the least.

Let us not only have the gift of service but the gift of wisdom as well. Help us to remember that true wisdom comes not from books but from insight into that divine self which you are continually revealing to those of us who are open and receptive to your life-giving spirit.

In all of life's decisions, but particularly in those that affect the well-being of your people, help us to be guided by love of you and of our fellow men, not by selfish whim. Bless us that we may ever be a source of blessing of all whom we have met and touched. These things we ask through Eternal Christ, who has always been, who is now and always will be the alpha and the omega, the beginning and the end, the one who makes all things new. Amen.

The journal of yesterday was read and approved.

## Papers from the Senate

Bill "An Act Coordinating Regional and Inter-city Public Transportation Programs" (Emergency) (S. P. 495) (L. D. 1556)

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

## Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Provide for Extension of the Time Period During which Notice must be Given under the Workers' Compensation Act" (S. P. 278) (L. D. 846)

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. 497)

State of Maine  
SENATE CHAMBER  
President's Office  
Augusta, Maine 04333

April 9, 1979

Honorable Roland Sutton  
Honorable Jasper Wyman  
Chairmen, Labor Committee  
State House  
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Gary F. Thorne of Old Town to serve as the public alternate member of the Maine Labor Relations Board.

Pursuant to Title 26 MRSA, Section 968, this nomination will require review by the Joint Standing Committee on Labor and confirmation by the Senate.

Sincerely,  
S/JOSEPH SEWALL  
President of the Senate  
S/JOHN MARTIN  
Speaker of the House

Came from the Senate Read and Referred to the Committee on Labor.

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

## Petitions, Bills and Resolves

## Requiring Reference

The following Bill was received and referred to the following Committee:

## Appropriations and Financial Affairs

Bill "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine Teachers' Association for Employees in the Bargaining Unit of Administrators at the Vocational-Technical Institutes and the School of Practical Nursing" (Emergency) (H. P. 1302) (Presented by Mr. Pearson of Old Town) (Cosponsor: Mr. Morton of Farmington)

(Ordered Printed)

Sent up for concurrence.

## Orders

An Expression of Legislative Sentiment (H. P. 1300) recognizing that:

Christopher Jamieson of Millinocket has been chosen State of Maine "Boy Scout of the Year" for 1979

Presented by Mr. Marshall of Millinocket (Cosponsors: Senator Pray of Penobscot and Mr. Birt of East Millinocket)

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1301) recognizing that:

the Sterns High School Stage Band, under the Direction of Mr. Jerry Walker, has won the Division II Championship for the State of Maine for 1979

Presented by Mr. Marshall of Millinocket (Cosponsors: Senator Pray of Penobscot and Mr. Birt of East Millinocket)

The Order was read and passed and sent up for concurrence.

## House Reports of Committees

## Ought Not to Pass

Mr. Brown from the Committee on Public Utilities on Bill "An Act to Prohibit Telephone Charges for Information or Directory Assistance Calls" (H. P. 527) (L. D. 649) reporting "Ought Not to Pass."

Mr. Reeves from the Committee on Public Utilities on Bill "An Act to Make it Mandatory for Utilities to Notify Fire Chiefs and Municipal Officers when they Increase the Voltage through a Municipality" (H. P. 526) (L. D. 648) reporting "Ought Not to Pass"

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

## Leave to Withdraw

Miss Gavett from the Committee on Public Utilities on Bill "An Act to Require the Public Utilities Commission to Investigate the Establishment of a Separate Customer Charge Classification for Electric Service to Any Grange of Patrons of Husbandry" (H. P. 564) (L. D. 710) reporting "Leave to Withdraw"

Mr. Lowe from the Committee on Public Utilities on Bill "An Act to Prohibit Telephone Companies from Requiring Service Deposits Prior to Providing Phone Service to Businesses" (H. P. 444) (L. D. 561) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

## Ought to Pass in New Draft

Mr. Jackson from the Committee on Business Legislation on Bill "An Act to Provide for Continuing Education for Real Estate Brokers and Salesmen" (H. P. 364) (L. D. 480) reporting "Ought to Pass" in New Draft (H. P. 1303) (L. D. 1559)

Report was read and accepted, the New Draft read once and assigned for Second Reading Tomorrow.

## Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought not

to Pass" on Bill "An Act to Provide for Non-smoking Areas in Restaurants with a Seating Capacity of 50 or more Persons" (H. P. 433) (L. D. 550)

Report was signed by the following members:

Mrs. GILL of Cumberland  
Mr. CARPENTER of Aroostook  
— of the Senate.

Mrs. PAYNE of Portland  
Mr. CLOUTIER of South Portland  
Mrs. CURTIS of Milbridge  
Mr. NORRIS of Brewer  
Mrs. MacBRIDE of Presque Isle  
Mr. MATTHEWS of Caribou

— of the House.

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

Report was signed by the following members:

Mr. HICHENS of York

— of the Senate.

Messrs. BRODEUR of Auburn  
VINCENT of Portland

— of the House.

## Reports were read

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

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

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

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to the acceptance of the "Ought Not to Pass" report as the sponsor of the bill.

This bill is fairly easy to explain in its capacity. What it does is, it pertains to reference of seating capacity over 50, which eliminates your smaller restaurants. It allows for 25 percent of the seating space to be set aside for non-smokers.

Non-smokers constitute a majority of the population. I don't think that even for those that smoke there hasn't been somebody who has gone into a restaurant, trying to enjoy an expensive or semi-expensive, good meal and have it spoiled by cigar smoke or somebody constantly chain smoking at the table adjoining.

I feel it would be a good idea if some of the restaurants would volunteer to this, but in the State of Maine it seems they are not doing this.

This law is on the books in several other states that set aside floor space, and as a result of it, they find more people or non-smokers coming into the restaurant than before. Some of the non-smokers have a tendency of avoiding restaurants or staying away from restaurants as a result of the heavy smoking that goes on in restaurants.

This bill also excludes lounge areas where there are drinks served, so it would not infringe on that particular area.

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I take great pleasure in standing before you right now, as I told Mr. Vincent at the hearing on this bill, L. D. 550, the reason I wanted to get up and speak on this bill was because of my pent up emotions held back from Mr. Dexter's bill. As Mr. Dexter will attest to, I was against the first smoking bill, but I gave my word to Mr. Dexter and I kept it. It was very frustrating to go through a vote time and again when you didn't want to. So, when this bill came to the Health and Institutions Committee, as I sat beside Representative Vincent, I beamed and I said, George we are going to have some fun with this one.

What I would like to do is tell you the same story that I told the committee when the first smoking bill came on the floor of the House. I felt that the state, although it should exercise to a certain degree and encourage restaurants to post no-smoking signs, just as it does in the state building. I don't think that the state should go into the affairs of private industry and the private sector.

We had had many, many restaurant owners testify against this particular piece of legislation. They told us that if it were going to affect their pocket books, they would definitely put up signs and make adjustments so that their people would be taken care of.

Outside of that I don't think that there is too much more to say. We did come out with a divided report, 12 members voting "ought not to pass" and one member on the minority report, and I move we accept the "ought not to pass" report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Dixfield, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: We have a little restaurant in one of the shopping centers, Deering Ice Cream; they have a no smoking area. I like to go there because I can get away from the smoke. If they can do it, I can't understand why others can't do the same.

The SPEAKER pro tem: The Chair recognizes the gentleman from Skowhegan, Mr. Whittemore.

Mr. WHITEMORE: Mr. Speaker, Ladies and Gentlemen of the House: As far as I am concerned, this body is here to run the government and not to run private enterprise. If I run a restaurant and I allow smoking and you don't like it, don't come in there, go to the restaurants that don't allow it; that is up to you. I am paying the bills there and I am running that restaurant and I don't want the government to run it. I think we are interfering with private enterprise too much. I say, let's run the government and leave the business to the business people, let them run it. If they can't run it properly, they will close up.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: I just thought I would give a couple of reasons why I signed the "ought not to pass" report, then we can vote to kill this bill.

I think for the first time in my two and a half years here, I agree with Mr. Whittemore. I don't think that we should interfere with the restaurants that are attempting to do business in the state.

The Maine Lung Association appeared at the hearing against the bill for that same reason. They felt that the Restaurant Association, in good faith, should voluntarily attempt to set aside sections for not smoking. I think that is why a majority of the committee agreed that this bill "ought not to pass". In some cases, I also think that it is difficult for restaurants that seat over 50 people to set aside sections because of the way that the restaurant is set up, and I think that it certainly would cause difficulty for them. Therefore, I would ask the House to go along with the "ought not to pass" report.

The SPEAKER pro tem: The chair recognizes the gentleman from Portland, Mr. Vincent.

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Cloutier has somewhat hit the nail on the head in directing or facing part of the problem and the reason for submitting this bill. Mr. Cloutier borders on being a chain smoker, if he isn't already there. I happen to sit next to him in the committee, and if it wasn't for the chairman of the committee, I would be subjected to his chain smoking through every bill that is being heard before the committee. This is one of the reasons that I put the bill in. It is impossible to

get into a restaurant and go through a situation whereby you can get away from some smoke, in the larger restaurants. I am not talking about the smaller restaurants. I am talking about your large restaurants. That is why this section was put into the bill about the seating capacity of 50.

If it wasn't for the chairman of the committee, like I said, I would be subjected to smoke everyday. If we didn't have a smoking ban in this House, I am sure I would be subjected to some of it in here. There isn't enough voluntary restraint, which is one of the reasons I put this bill in.

When the vote is taken I would request a division.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add something that hasn't been said already, and that is the fact that the Restaurant Association, working with the Maine Lung Association has begun a voluntary effort to establish no smoking in restaurants. They are going to be doing this in sections of restaurants throughout the state. They will begin on Saturday of this week. I thought that we ought to give their voluntary efforts an opportunity to work or not to work. They claim they can implement this by voluntary program by July 1, 1979. I think that will be enough time to find out whether or not they can't.

Also, I think you ought to know that there is no fiscal note on this bill. If it were to pass, it would cost \$15,000 in 1979-80 and another \$15,000 in the year 1980-81 to provide for a sanatorium worker II to travel throughout the state and enforce the bill we have before us. I ask that you support the "ought not to pass" report.

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I just wanted to clear up the record a little bit. I am not a chain smoker. As a matter of fact, I just started smoking again when I came up to the legislature. I did want to clear that point up on the record.

The SPEAKER pro tem: The pending question is on the motion of the gentlewoman from Hampden, Mrs. Prescott, that the House accept the Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

75 having voted in the affirmative and 16 in the negative the motion did prevail.

Sent up for concurrence.

#### Order Out of Order

An Expression of Legislative Sentiment (H. P. 1299) recognizing that:

Richard Partridge, Jr., of Detroit Troop #483, has become the first member of his troop ever to achieve the rank and distinction of Eagle Scout

Presented by Mr. Hall of Sangerville.

The order received out of order by unanimous consent, was read and passed and sent up for concurrence.

#### Consent Calendar

##### First Day

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

(H. P. 683) (L. D. 907) Bill "An Act to Establish a Demonstration Project to Create a grant and Loan Program to Assist Older Citizens in Purchasing Medically Prescribed Eyeglasses, Dentures and Hearing Aids" Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-200)

(S. P. 189) (L. D. 456) Bill "An Act Appropri-

ating Funds to Allow Maine State Retirement Members a Cost-of-Living Increase in Benefits" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-94)

(S. P. 290) (L. D. 852) Bill "An Act to Allow Reduced Pricing of Discontinued Liquor Items" (Emergency) Committee on Legal Affairs reporting "Ought to Pass"

(S. P. 286) (L. D. 856) Bill "An Act to Provide for Metric Measurements" Committee on Legal Affairs reporting "Ought to Pass"

(S. P. 408) (L. D. 1254) Bill "An Act to Aid Recovery of Medicaid Funds" Committee on Health and Institutional Services reporting "Ought to Pass"

(S. P. 393) (L. D. 1197) Bill "An Act to Exempt Automobile Assigned Risk Policies from the Countersignature Requirements" Committee on Business Legislation reporting "Ought to Pass"

(S. P. 392) (L. D. 1196) Bill "An Act Concerning the Reason for Nonrenewal of Policies Under the Maine Property Insurance Cancellation Control Act" Committee on Business Legislation reporting "Ought to Pass"

(H. P. 663) (L. D. 838) Bill "An Act to Amend the Statutes Relating to Airmobiles" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-204)

(H. P. 73) (L. D. 82) Bill "An Act Relating to Weights of Commercial Vehicles" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-205)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 12, under listing of Second Day.

#### Consent Calendar

##### Second Day

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

(S. P. 257) (L. D. 763) Bill "An Act to Make Private Organizations which Receive a State Subsidy Subject to the Maine Freedom of Access Law" (C. "A" S-89)

(S. P. 234) (L. D. 686) Bill "An Act to Amend the Definition of Wholesale Life Insurance"

(H. P. 91) (L. D. 103) Bill "An Act to Establish Registration of Polygraph Examiners" (C. "A" H-194)

(H. P. 784) (L. D. 984) Bill "An Act to Permit Certain Maine Pharmacists to Fill the Prescription of Certain Nonresident Physicians" (C. "A" H-195)

(H. P. 654) (L. D. 813) Bill "An Act to Protect Insurance Claim Adjusters and Appraisers from Conflict of Interest" (C. "A" H-196)

(H. P. 334) (L. D. 433) Bill "An Act to Clarify Certain Provisions of the Banking Laws Relating to Savings Banks" (C. "A" H-197)

(H. P. 622) (L. D. 779) Bill "An Act to Establish Standards for the Sale and Installation of Foam Plastic Insulation" (C. "A" H-198)

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

#### Passed to Be Engrossed

Bill "An Act to Permit Juvenile Offenders who are Deaf or Mute, or Both, to be Committed to the Maine Youth Center" (Emergency) (S. P. 207) (L. D. 580)

Bill "An Act to Require Conspicuous Posting of Retail Gasoline and Diesel Fuel Prices" (H. P. 624) (L. D. 766)

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