

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Ninth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

HOUSE

Friday, January 25, 1980

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

Prayer by Father Adrian Beaulieu of St. Louis Catholic Church, Auburn.

Father BEAULIEU: Lord God, we ask you to send your gift of wisdom on the men and women assembled here this day that they may exercise well their role of leadership and truly represent the needs of the people of the State of Maine. We pray for the civil leaders of our country in this time of national tension that peace be our primary ambition and goal. We pray in a special way for the American hostages, for their release and reunion with their families. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Joint Order. An Expression of Legislative Sentiment recognizing that:

Mr. and Mrs. Harry R. Beatty of Portland, will celebrate their 50th wedding anniversary on January 27, 1980 (S. P. 725)

Came from the Senate, read and passed. In the House, was read and passed in concurrence.

Bill "An Act Making Supplemental Appropriations from the General Fund for the Fiscal Years Ending June 30, 1980 and June 30, 1981, to the Department of the Attorney General for the Defense of Land Claims Asserted by the Passamaquoddy Tribe and the Penobscot Nation" (Emergency) (S. P. 719) (L. D. 1869)

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

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

Bill "An Act Relating to the Facilitation of the Collection of Child Support by Exempting Financial Records from Confidentiality Pursuant to the Law of Financial Institutions" (S. P. 713) (L. D. 1851)

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

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

Bill "An Act to Allow School Districts to Account for Federally-subsidized Pupils as Residents of the District and not of the Municipality in which they reside" (S. P. 720) (L. D. 1870)

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

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

Later Today Assigned

Bill "An Act to Develop Elderly Congregate Housing in Maine" (S. P. 724) (L. D. 1873)

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

In the House, on motion of Mrs. Kany of Waterville, tabled pending reference in concurrence and later today assigned.

Bill "An Act to Amend the Procedure for Appointment of Guardians and Conservators under the Maine Probate Code" (S. P. 721) (L. D. 1871)

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

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

Bill "An Act Creating the Rangeley Water District" (Emergency) (S. P. 722) (L. D. 1874)

Came from the Senate referred to the Com-

mittee on Public Utilities and ordered printed.

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

Later Today Assigned

Bill "An Act to Clarify Procedure in Freight Rate Proceedings Before the Public Utilities Commission Involving Railroads and Water Common Carriers" (S. P. 723) (L. D. 1872)

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

In the House, on motion of Mr. Davies of Orono, tabled pending reference in concurrence and later today assigned.

Messages and Documents

The following Communication:

Department of
EDUCATIONAL AND CULTURAL
SERVICES
Augusta, Maine

January 10, 1980

Honorable John L. Martin

Speaker of the House

109th Legislature

State of Maine

State House Station #2

Augusta, ME 04333

Dear Representative Martin:

It is with pleasure that we transmit the accompanying report, **Early Education for the Handicapped: Final Report on a Coordinated Delivery System for Services to Preschool Handicapped Children**, to the Second Regular Session of the 109th Legislature, in accordance with Private and Special Law 1977, Chapter 104 and Private and Special Law 1979, Chapter 56. It is our hope that this report will assist the members of the 109th Legislature in their deliberations on the preschool handicapped legislation which is a result of this two year pilot effort.

Sincerely,

S/HAROLD RAYNOLDS,
Commissioner of the Department
of Educational and Cultural Services

S/MICHAEL R. PETIT,
Commissioner of the Department
of Human Services

S/RONALD R. MARTEL,
Acting Commissioner of the Department
of Mental Health and Corrections

Was read and with accompanying report ordered placed on file.

The following Communication:

January 24, 1980

Edwin Pert

Clerk of the House

State House Station #3

Augusta, Maine 04333

Re: Status of Housing in Maine

The State Planning Office is pleased to transmit to the Legislature the first three of seven housing monographs. The housing monographs are prepared by the Planning Office in partial fulfillment of our statutory responsibility to annually inform the Governor and the Legislature of the status of housing in Maine. The completed monographs cover the following subject areas: private financing trends in Maine housing; the cost of housing; and an analysis of current housing conditions and future needs. The four other monographs being prepared cover public investment in housing; the economic impact of housing construction; and inventory of current housing programs; and a summary of major housing findings and recommendations.

It was the intent of the Legislature through enactment of 5 M.R.S.A. § 3306-A to promote the development of coordinated policies, programs and services in order to address more adequately the basic housing needs of the people of the State of Maine. These monographs encourage such coordination by ensuring that the Governor and the Legislature are periodically informed about the various types

of housing programs conducted and services provided in the State to meet such needs. The collected monographs are intended to form the comprehensive report of statewide housing programs and services required by statute. The remaining monographs will be transmitted upon completion. Copies are being distributed to the Chairmen of the Standing Committees on Appropriations and Financial Affairs and State Government. If individual members or your constituents need copies of the monographs, please contact the State Planning Office.

Sincerely,

S/ALLEN PEASE
Director

Was read and with accompanying report ordered placed on file.

The following Communication
DEPARTMENT OF BUSINESS
REGULATION

State House Station 35

Augusta, Maine

January 23, 1980

The Honorable John L. Martin

Speaker of the House

House of Representatives

Station 2

Augusta, ME 04333

Dear Representative Martin:

I am transmitting to you the report of Small Claims from the State Claims Board pursuant to 5 MRSA, Section 1510-A, Subsection 8.

Sincerely,

S/GORDON L. WEIL

Was read and with accompanying report ordered placed on file.

Petitions, Bills and Resolves

Requiring Reference

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

Appropriations and Financial Affairs

Bill "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine State Troopers Association" (Emergency) (H. P. 1753) (Presented by Mr. Pearson of Old Town) (Cosponsors: Mr. Morton of Farmington) (Governor's Bill)

Bill "An Act to Appropriate Funds for an Increase in Board Rates for Foster Parents and Clothing Allowances for Children under the Care or Custody of the Department of Human Services" (H. P. 1754) (Presented by Mr. Kelleher of Bangor) (Cosponsors: Mr. Violette of Van Buren, Mr. Brannigan of Portland, Mr. Cloutier of South Portland) (Governor's Bill) (Ordered Printed)

Sent up for concurrence.

Business Legislation

Bill "An Act to Adopt the Fair Debt Collection Practices Act" (H. P. 1755) (Presented by Mr. Howe of South Portland) (Cosponsors: Mr. Paul of Sanford and Mr. Baker of Portland) (Governor's Bill) (Ordered Printed)

Sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act to Provide for the Education of Preschool Handicapped Children" (H. P. 1756) (Presented by Mrs. Mitchell of Vassalboro) (Cosponsors: Mr. Diamond of Windham and Mr. Garsoe of Cumberland) (Governor's Bill) Committee on Education was suggested.

On motion of Mr. Tierney of Lisbon Falls, the Bill was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

Bill "An Act to Authorize Bond Issue in the Amount of \$6,000,000 for Improvements to Vocational-technical Institutes" (Emergency) (H. P. 1757) (Presented by Mrs. Beaulieu of Portland) (Cosponsors: Mr. Martin of Eagle Lake, Mr. Birt of East Millinocket, and Mrs. MacBride of Presque Isle) (Governor's Bill)

Committee on Education was suggested.

On motion of Mr. Pearson of Old Town, the Bill was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence. (Later Reconsidered)

Education

Bill "An Act to Clarify the Education Laws" (H. P. 1758) (Presented by Mr. Connolly of Portland) (Cosponsors: Mrs. Locke of Sebec and Mrs. Gowen of Standish) (Governor's Bill) (Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Amend the Hazardous Waste Statutes in Order that the State May Respond to Dangers to Public Health, Safety or Welfare and Allow Delegation of the Federal Program" (Emergency) (H. P. 1759) (Presented by Mr. Blodgett of Waldoboro) (Cosponsors: Mr. Baker of Portland and Mrs. Mitchell of Vassalboro) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Fisheries and Wildlife

Bill "An Act to Prohibit Trapping by Game Wardens except in the Line of Duty" (H. P. 1760) (Presented by Mr. Dow of West Gardiner) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act to Prohibit Nylon Coated and Plastic Covered Bullets" (H. P. 1763) (Presented by Mr. MacEachern of Lincoln) (Governor's Bill)

Committee on Fisheries and Wildlife suggested.

On motion of Mr. MacEachern of Lincoln, the Bill was referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

Labor

Bill "An Act Relating to the Effective Date of Administrative Changes in the Employment Security Law" (Emergency) (H. P. 1762) (Presented by Mr. Wyman of Pittsfield) (Cosponsor: Mr. McHenry of Madawaska) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Local and County Government

Bill "An Act to Establish County Corrections Improvement Fund" (H. P. 1761) (Presented by Mrs. Prescott of Hampden) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act to Expand the Kinds of Projects Eligible for Financing under the Maine Guarantee Authority Revenue Obligation Securities Act" (H. P. 1764) (Presented by Mr. Norris of Brewer) (Cosponsors: Mrs. Huber of Falmouth, Mr. Violette of Van Buren and Mr. Barry of Fort Kent) (Governor's Bill)

Bill "An Act Relating to the Administration of the State Employees Group Accident and Sickness or Health Insurance Plan" (H. P. 1765) (Presented by Mr. Tuttle of Sanford) (Cosponsors: Mr. Hickey of Augusta)

Bill "An Act Relating to the Reorganization of the Board of Trustees of the State Employees Group Accident and Sickness or Health Insurance Plan" (H. P. 1766) (Presented by Mr. Paradis of Augusta) (Governor's Bill)

Bill "An Act to Expand the Kinds of Projects Eligible for Financing Under the Municipal Securities Approval Act" (H. P. 1767) (Presented by Mrs. Kany of Waterville) (Cosponsors: Mr. Vose of Eastport, Mr. Elias of Madison and

Mr. Norris of Brewer) (Governor's Bill)

Bill "An Act to Clarify the Standard of Review for Agency Rulemaking" (H. P. 1768) (Presented by Mrs. Berube of Lewiston) (Cosponsors: Mr. Fowlie of Rockland, Mr. Tuttle of Sanford and Mr. LaPlante of Sabattus) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act to Establish a Single Maine Estate Tax Based Upon a Percentage of the Federal Gross Estate" (H. P. 1769) (Presented by Mr. Tierney of Lisbon) (Cosponsor: Mr. Brenerman of Portland) (Governor's Bill)

Bill "An Act to Provide a State Income Tax Credit for Installation of Renewable Energy Systems" (H. P. 1770) (Presented by Mr. D. Dutremble of Biddeford) (Cosponsors: Mr. Kane of South Portland, Mr. Wood of Sanford and Mr. Brenerman of Portland) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Later Today Assigned

Bill "An Act to Establish a Modified Procedure on Matters before the Public Utilities Commission Relating to Contract Carrier Permits and Special and Charter Bus Licenses" (H. P. 1771) (Presented by Mr. Vose of Eastport) (Cosponsor: Mr. McKean of Limestone) (Governor's Bill)

Committee on Transportation was suggested.

On motion of Mr. Davies of Orono, tabled pending reference and later today assigned.

Study Report

Joint Select Committee on Government Ethics

Mrs. Kany from the Joint Select Committee on Government Ethics to which was referred the study relative to conflicts of interest pursuant to Joint Order H. P. 1437 have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Require Disclosure of Types of Assets and Future Rights by Legislators" (H. P. 1772) (L. D. 1875) be referred to the Committee on State Government for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on State Government, ordered printed and sent up for concurrence.

Study Report

Joint Select Committee on Government Ethics

Mrs. Kany from the Joint Select Committee on Government Ethics to which was referred the study relative to conflicts of interest pursuant to Joint Order H. P. 1437 have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Require Financial Disclosure by Justices and Judges" (H. P. 1773) (L. D. 1876) be referred to the Committee on State Government for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on State Government, ordered printed and sent up for concurrence.

Study Report

Joint Select Committee on Government Ethics

Mrs. Kany from the Joint Select Committee on Government Ethics to which was referred the study relative to conflicts of interest pursuant to Joint Order H. P. 1437 have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Clarify the Provisions Relating to Executive Conflict of Interest and to Establish Financial Disclosure Requirements for Policymaking Executive Employees" (H. P. 1774) (L. D. 1877) be referred to the Committee on State Government for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on State Government, ordered printed and sent up for concurrence.

Study Report

Committee on Business Legislation

Mr. Brannigan from the Committee on Business Legislation to which was referred the Study relative to Motor Vehicle Warranties and Repairs pursuant to Joint Order H. P. 1459 have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act Relating to Motor Vehicle Warranties and Repairs" (H. P. 1777) (L. D. 1878) be referred to this committee for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

All matters acted upon, with the exception of House Paper 1757, were ordered sent forthwith to the Senate.

Orders

The following Joint Orders, Expressions of Legislative Sentiment recognizing that:

(H. P. 1775) the Cooperative Sea Grant Program of the University of Maine and the University of New Hampshire, the first bi-state program accorded Sea Grant College status

Presented by Miss Gavett of Orono (Cosponsor: Senator Devoe of Penobscot)

(H. P. 1776) Wellington Higgins of Winthrop, who will celebrate the 106th anniversary of his birth on January 25, 1980.

Presented by Mr. Davis of Monmouth (Cosponsor: Senator Ault of Kennebec)

Were read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Tabled Unassigned

On motion of Mr. Leonard of Woolwich, the following Joint Order: (H. P. 1778) (Cosponsors: Mr. Leighton of Harrison, Ms. Brown of Gorham and Mrs. Berube of Lewiston)

ORDERED, the Senate concurring, that the Joint Standing Committee on State Government report out a resolution proposing an amendment to the Constitution of Maine to provide that the Legislature convene on the first Wednesday of January biennially and in special session at such other times on the call of the Governor or the call of the Legislature.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: The Order before you today, if you will read it, I think is quite important. However, it does not appear as I had requested it to appear on the calendar, mainly because of a difference between the Speaker and myself and I had to succumb to his obvious expertise—not to question that he was wrong, he is entitled to a few mistakes and we will simply overlook this one.

The order is to simply have the State Government Committee report out a bill to do away with the second annual session, mainly because of the fiasco we are going through here and the other things that were in the preamble, and I would like to read the preamble at this time. "Whereas, in the past, the Legislature convened in regular session in the odd year and special sessions were called the following year by the Governor as needed; and

"Whereas, the wisdom of expanding the legislative process by mandating a second regular session in the even year is now subject to question due to the change in times; and

"Whereas, the operation of the legislative facilities during the winter months each year constitutes an unnecessary drain on our energy

resources; and

"Whereas, the start of a session on a fixed date before legislative programs are fully prepared is totally without merit; and

"Whereas, with an ever increasing burden on the taxpayers, it is incumbent upon the Legislature to avoid the expense of convening the Legislature unnecessarily; and

"Whereas, although constitutionally mandated, the requirement of a second regular session of the Legislature has not engendered public confidence, that the Legislative Branch of government is presently committed to an efficient, economical and energy conscious system of government; now therefore, be it

"Ordered, the Senate concurring, that the Joint Standing Committee on State Government report out a Resolution proposing an Amendment to the Constitution of Maine to provide that the Legislature convene on the first Wednesday of January biennially and in special session at such other times on the call of the Governor or the call of the Legislature."

I thought the preamble was very important in this particular order, to read it at this time, and perhaps it will have more significance in my reading it rather than your reading it on the record.

With that, there are others that would speak for this motion, and I hope you will listen closely.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, I rise on a point of order. I would ask for a parliamentary inquiry to the Speaker if this measure is properly before us. I believe the State Government Committee dealt with this last year.

Thereupon, tabled unassigned pending a ruling from the Chair.

Consent Calendar

First Day

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

(H. P. 1646) (L. D. 1756) Bill "An Act Relating to Maine Educational Advisory Organizations" — Committee on Education reporting "Ought to Pass"

(H. P. 1643) (L. D. 1752) Bill "An Act Concerning Recording Comments and Notice Dates Under Administrative Procedure Laws" — Committee on State Government reporting "Ought to Pass"

(H. P. 1606) (L. D. 1717) RESOLVE, Authorizing the Attorney General to Convey the State's Interest in a Certain Parcel of Land and Buildings in Augusta to the Community Shelters for Children, Inc." — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H. 753)

No objections being noted, the above items were ordered to appear on the Consent Calendar of February 4, 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:

(H. P. 1596) (L. D. 1707) Bill "An Act to Amend the Charter of the Harrison Water District"

(H. P. 1605) (L. D. 1716) Bill "An Act Clarifying the Authority of Municipalities to Acquire and Operate Water Systems" (Emergency)

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.

Passed to Be Enacted Emergency Measure

An Act to Increase the Borrowing Capacity of the Winterport Sewerage District (H. P.

1602) (L. D. 1713)

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. 119 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 Reconstruction of Interstate and International Bridges (H. P. 1614) (L. D. 1724)

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. 116 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 Repeal the Marine Worm Act (H. P. 1632) (L. D. 1742)

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. 116 voted in favor of same and 2 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 Amend the School Administrative Districts Reapportionment Procedure (H. P. 1619) (L. D. 1729)

An Act to Change the Name of the Glen Cove Bible College to the New England Baptist Bible College (H. P. 1697) (L. D. 1804)

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

Orders of the Day

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

Bill "An Act to Provide for Per Diem Compensation for Active Retired Judges" (Emergency) (H. P. 1636) (L. D. 1745)

Tabled—January 24, 1980 for Mr. Leighton of Harrison.

Pending—Passage to be Engrossed.

Mr. Gray of Thomaston offered House Amendment "A" and moved its adoption.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: If you will remember, a couple days ago the Judiciary Committee came out with the report on L. D. 1745 and I came out with a minority of one report. I didn't challenge the majority report at that time and I was questioned by somebody on the Appropriations Committee why I didn't. They suggested that I should proceed. Hopefully, maybe they think it is time the House provided a little direction for the Appropriations Committee rather than the other way around; so I will explain my amendment.

The salary of a Superior Court Judge is \$36,000. He retires on three-quarters pay, or an amount of \$27,048 per year. L. D. 1745 would pay an active retired judge \$75 a day in addition to his retirement, or \$179 a day. This is \$40 more a day than his colleagues are receiving before they retire. It would seem to me that we should not pay an active retired judge, when he sits on the bench or fills in, \$40 more a day than his colleagues get. I am not sure we should pay him any more than what he would receive before he retired.

My amendment would reduce his pay to \$50 a day. This is still \$15 more a day than his colleagues would receive. This was discussed at

length on the committee and the committee knows my feelings. Most of the members on my committee were sympathetic to my amendment, except for the lawyers, so I would hope today that perhaps you might support my amendment. If the Appropriations Committee feels generous and they have plenty of money, they can pay them \$100 a day as far as I am concerned, but I am offering this amendment simply to make a point that you will be aware of the difference between the original bill and what it wants to accomplish and my amendment.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: The Appropriations Committee has no position on this bill as such right now and willing to listen to anything. If the gentleman's amendment fails, we would be willing to listen at a later time to any suggestions that he might have. We are open to suggestions at any time.

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

Mr. HOBBS: Mr. Speaker, I move for the indefinite postponement of House Amendment "A."

The SPEAKER: The gentleman from Saco, Mr. Hobbins, moves that House Amendment "A" be indefinitely postponed.

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

Mr. GRAY: Mr. Speaker, I request a roll call.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: This particular bill before you was presented on behalf of the judiciary to address a serious need which the judiciary has at the present time.

The good gentleman from Thomaston, Mr. Gray, would lead you to believe that an active retired judge would be paid more in salary if, in fact, this bill passed than a person sitting as a regular judge not retired would receive.

There is a big difference between a person's retirement and a salary—that is not a salary, it is retirement. There is a big definitional difference, I think, between the two. If a person works in a job like a bricklayer or works in the textile mills and receives a retirement benefit after he or she serves in that capacity and retires, I don't consider that a salary, I consider it a benefit. To say that the person would receive \$179, I think that was the figure the good gentleman used, as a salary, that is not particularly the case. The case would be, he would be receiving, whoever the judge was, a benefit which they rightfully deserve after serving in some capacity for the benefit of the people of the state, plus they should receive, under this particular bill, per diem. I don't consider that as part of a salary, the per diem plus the benefits, as the total amount of a salary.

The good gentleman mentioned the fact that there was sympathy on the committee for his position. The sympathy was, it was a 12 to 1 report. If the sympathy was there, I think the members of the committee who sympathized would have gone along with the good gentleman from Thomaston, Mr. Gray, on this particular report.

It is easy to knock the judges, it is easy to knock people when you say \$179 a day, and it is a lot of money for an individual, but we are talking about the third branch of government, we are talking about a coequal branch along with the legislative branch and the executive branch.

Presently in the branch of government known as the judiciary, we have a fiscal crisis on our hands. We have a situation where we have a caseload problem where we don't have enough judges to handle motions, for example, for support payments when people don't pay their support payments in a divorce. The

people have to wait a long time. It is not because the judge is not working hard, it is because we have so many cases to handle in so many courts.

Active retired judges serve right now with no pay whatsoever. They do so out of their own goodness for the State of Maine. However, as you probably know—I raise you this question—would you work for nothing a hundred days a year? Well, some of our active retired judges are working as much as a hundred days a year because they were asked to by the Chief Justice of the Supreme Court and they because they feel a moral obligation.

Some of these judges are having a hard time. We heard testimony before our committee from two of these active retired judges telling us that they don't even get expenses; their expense money doesn't even meet what their real expenses are and this particular bill would assist them.

I urge you today to go along with the 12 to 1 report, let this bill go to the appropriations table, go to leadership and let it be decided there. Let's decide the bill on the merits, not on whether or not you want to have a person receive \$179 for compensation or a person receive \$75 for his salary and the rest of that which they truly deserve, out of retirement.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: This is a measure similar, in fact identical, to a measure we had before us last year. We had several judicial bills last year, and this was one of them. We had one to improve our court facilities, we had one, I think, for pay raises for our judicial employees, which we have before us that had been bypassed over the last few years, and we had this one for active retired judges.

We have a few judges in this state who are retired, but they would like to continue, some of them would like to continue to serve when they are needed and when they are called upon by the Chief Justice of the judicial branch to help out with the court dockets when the dockets around this state get overloaded. They are presently not receiving any compensation for that, they are not receiving any expenses for their travel, and they are putting in a great deal of service to the State of Maine. The alternative, obviously, is for us to increase the number of full-time, full-salaried judges in this state, and that is a very costly alternative.

Look at the bill and look at the amendment. Either way you go it is a very low amount of money for a great deal of service that we would be receiving from active retired judges.

In the end, this bill will go through the Appropriations Committee, as the good gentleman from Old Town, Mr. Pearson, has explained, and ultimately it will end on the Appropriations Table and it will come before the leadership, 10 members of leadership, and they will have to decide how many dollars actually go into the bill, if we have any dollars left over at the end of the session.

Last year the bill got zero dollars and it passed. It is back again. So, I would urge you to let the bill sit as it is with its full appropriations figure on it of a per diem of \$75 or \$40, defeat the amendment that is being presented, let it go to Appropriations and let them pass on what figure they think is appropriate in light of how much money they think is available for all L.D.'s that will go on the Appropriations Bill and ultimately leadership will have to pass on that when it comes off the Appropriations Table to see whether or not we have any money at all.

It is to our benefit, and the citizens of the State and the Judicial Branch, if we can put through some of these measures, such as this one for per diem for active retired judges to help with the backlog, and also when another measure comes along behind it that the good gentleman from Saco, Mr. Hobbins, has spon-

sored, a pay raise for judicial employees, too. So I would support the gentleman from Saco, Mr. Hobbins, on his motion to indefinitely postpone.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Saco, Mr. Hobbins, that House Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Bachrach, Beaulieu, Berube, Birt, Bordeaux, Boudreau, Bowden, Brannigan, Brennerman, Brown, K.L.; Bunker, Call, Carter, D.; Carter F.; Chonko, Churchill, Cloutier, Cox, Davies, Doukas, Dow, Dutremble, D.; Elias, Fenlason, Fillmore, Gavett, Gowen, Hanson, Hobbins, Huber, Hutchings, Jackson, Jacques, E.; Jacques, P.; Kane, Kany, Kelleher, Leonard, Lewis, Lizotte, Locke, Lougee, Lund, MacEachern, Masterman, Masterton, Matthews, McPherson, McSweeney, Morton, Nadeau, Norris, Peltier, Peterson, Sewall, Simon, Soulas, Stetson, Tarbell, Tierney, Tuttle, Twitchell, Violette, Vose, Whittemore.

NAY — Austin, Barry, Benoit, Blodgett, Brodeur, Brown, A.; Brown, D.; Brown, K.C.; Carrier, Conary, Cunningham, Curtis, Damren, Davis, Dellert, Diamond, Drinkwater, Fowlie, Gray, Gwadodsky, Hall, Higgins, Hunter, Immonen, Kiesman, Laffin, Lancaster, LaPlante, Leighton, Lowe, MacBride, Mahany, Marshall, Martin, A.; McHenry, McKean, Nelson, A.; Paradis, E.; Paradis, P.; Paul, Payne, Pearson, Post, Prescott, Reeves, J.; Rollins, Roope, Sherburne, Smith, Sprowl, Stover, Studley, Theriault, Torrey, Tozier, Vincent, Wentworth, Wyman.

ABSENT — Baker, Berry, Carroll, Connolly, Dexter, Dudley, Dutremble, L.; Garsoe, Gillis, Hickey, Howe, Hughes, Jalbert, Joyce, McMahon, Michael, Mitchell, Nelson, M.; Nelson N.; Reeves, P.; Rolde, Silsby, Small, Strout, Wood. Yes, 67; No, 58; Absent, 26.

The SPEAKER: Sixty-seven having voted in the affirmative and fifty-eight in the negative, with twenty-six being absent, the motion does prevail.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I haven't said anything on this bill because I wasn't at the public hearing because I had to work, but I am very familiar with the bill.

In the first place, what bothers me is, I resent certain statements made this morning which are very contrary to what the bill says, also contrary, I believe, to the rules, that this bill should ever have been allowed in here because this is no emergency measure whatsoever, like many of the other bills that we have in here. The main reason I voted against the indefinite postponement of the amendment, reluctantly, is because I am not in favor of this.

Last year, when this bill came before the Judiciary Committee, the active retired judges, and I will read to you, contrary to what some people said in this House trying to make you believe that these poor people are not paid and everything else that they are really having a hard time, if they are having a hard time on the amount of money they are getting on their retirement, they had better take a second look somewhere here. It is right in the law that we passed last year, which says in Section 3, page 2 of your bill, "An active retired judge" and this is where the law is changed by this propos-

al, it says, "shall not receive any compensation in addition to the compensation upon retirement provided in Section 157A but he shall receive reimbursement for his expenses actually and reasonably incurred in the performance of his duties."

Some people that are promoting this five minutes ago said they were not getting anything. It is right here in the law — this is what they are trying to change.

Another thing, when this bill came up before us last year, the active retired judges wanted just the honor, after they retired they wanted to give a hand and help, and this was accepted on that condition. As far as I am concerned and others too, they probably deserve something but I don't think that this is the time in an underhanded way to do it to bring it into this session of the legislature. This is why I am against the bill. I don't think, at this time, we should give them any increase at all in wages such as proposed in the bill and the amendment. I resent that the Legislative Council allowed this kind of bill to come in here, but this is not the first time. When you don't pass something here for the judges, then they put into the Appropriations Bill and we get stuck with it anyway.

I submit to you that some of these judges deserve the money, but as stated by one of the members of this House that the judges are having a hard time — well, I am having a hard time too and I don't come here and ask for a raise. I think that this should be an honorary condition. This is the bill of goods that we were sold last year in Judiciary. Now, this year, in their own sneaky way, along with some of the people in this House, they have tried to sneak this bill in here and I don't like it, I resent it, and I will tell any one of them personally that this is not the right way to do things.

I also object to all the bills the Legislative Council let in this particular session. Out of all of them, probably 90 percent shouldn't be here, if you read the exact words and the conditions under which a bill is supposed to be in here.

I submit to you that this bill, as is, and all its conditions attached to it and under what conditions it was allowed, I move for the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the gentleman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, I would request a division.

If somebody is having a hard time in the State of Maine, I suggest maybe it is people who are trying to get motions before the court. As you know, my husband is an attorney and he tried to get a simple motion for a divorce, get a court date for temporary support the other day, and the first date he could get was March 29th.

The active retired judges are not stepping forward to serve as much as we would like them. We have a choice now, we can either have long delays in our courts; we can hire new judges and pay their retirement and pay their salaries and from a new position and give them a new office, a new staff, or we can try to encourage active retired judges to come forth and serve at times when the court gets crowded. It is a matter of two or three days and certainly a judge could step forth and do the hearing dates and it would help. So, that is the problem we have. The problem really is, do we want the court to move a little faster, do we want to hire, which is really a thrifty move, do we want to hire and pay these retired judges or do we want to appoint the staff new judges? Those are our options.

I would hope that you would not go along with indefinite postponement of this bill unless you are prepared to either wait a long time when you go to court or fund entirely new positions for the judiciary.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Westbrook, Mr.

Carrier, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Carrier of Westbrook requested a roll call.

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. 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 Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I do have to agree that we do have problems in the courts but, you know, everybody has their own ideas of what the problems are in the courts. It isn't because you don't hire people and not pay them any wages, it isn't because of that. I submit to you that it is because the system we have in itself — and you are going to be misled again somewhere along the line — the whole problem of the court system will be presented to you and to be solved by this other thing of eliminating hearings somewhere along the line. This is another bill which is not really true in essence. The fact is, we do have some problems in the court, but the problems in the court are because of the overlay.

My personal evaluation of the problem in the court is because of the appointments that have been made in the last year or two. If you don't believe there are some appointments that are questionable, you go talk to some of your lawyer friends. Ask them. We have people that are really qualified and they are not even considered for appointment in the court to keep these things moving.

I am in contact with the judges, I have friends that are judges, and I really am not against the whole bill as such. I am at this time. If you want to bring this up, bring it back next year. This thing of hiring new active retired judges, I know it is voluntary, but you also want to remember that of two active retired judges recently, two are not active retired judges — that is question you want to ask. Why not? If they are so dedicated, why don't they do it and give their time?

I submit to you that this is not a bill that should have been presented in this session. The original bill, the ones that talk in favor of this, apparently successfully deceived us in the last session of the legislature by telling us right in Section 3 of the bill that they were willing to work if they were compensated for their expenses.

You do what you want in your good judgment, but the end result is that this is just a small opening in the last bill that we passed. I don't think it should be in this session at all and I am against it. I hope that you see your way clear to vote for the indefinite postponement.

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

Mr. SIMON: Mr. Speaker, Members of the House: I cannot remain in my seat while I hear the judicial appointments of the previous two years being reviled by my good and learned friend from Westbrook, Mr. Carrier.

Mr. Carrier sat with the rest of us on the confirmation hearings during that very period. That would have been a perfectly appropriate time for him to raise his objections about the qualifications of the judges who have been confirmed as Superior Court Justices and Supreme Judicial Court Justices and Active Retired Justices in our court systems. He did not vote against them at that time. He did not solicit other people to vote against them at that time. He did not present cogent reasons why anyone should vote against them at that time.

I voted for them; I am proud that I voted for

them. I think they include some of the most qualified conceivable people to be in our state court system, and I will stand by them, including the active retired judges who we have confirmed.

I would ask you, men and women of the House, what good does it do to put laws on the books to crack down on criminals if you do not have a court system that can process them in a timely manner? One of the cardinal principles of the theory of deterrents is that the punishment be applied swiftly.

The gentlelady from Newcastle, Mrs. Sewall, has laid it right on the line. You can have a slow system, you can have a system that costs more than it need, or you can have a system that draws on the vast pool of talent of judges who have reached retirement age who do not want to work full time but are still willing to work for the state in this capacity.

I am going to ask you a second question: If you were 68 years old and you were living on the coast and the Chief Justice of Maine called you at eight or nine in the evening and told you that you were needed the next day in Auburn or Portland or Madawaska and asked you to show up there, why would you want to go out in the morning at five or six or seven o'clock in the snow when the State of Maine didn't give a cent for your efforts.

I ask you to vote no on the pending motion for indefinite postponement.

Mr. Carrier of Westbrook was granted permission to speak a third time.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: Strictly to clarify my position, which has been distorted, I believe, on the nominations and confirmations of the judges, I did and I wasn't strictly on their qualifications at that particular time, but I had information which a lot of others didn't have because I searched it and I still have the information, but I voted to pass some of these people. It was all right. They were qualified. Some of them I voted conditionally. I say conditionally because it was understood in a letter to the Governor, to his aides and to the other people he has around here, and right at the hearing, the confirmation hearing, the ones that were there will say that I have said so. I really did not like the way the procedure was done, because at that time certain individuals were taken from the outside and put in the Superior Court. That has been done before.

The statistics which I have received from somewhere do not prove the present statistics are getting away from promoting from within the ranks. In other words, my point is, if you have a district judge and you are going to have an opening on the Superior Court, you should give all consideration to the prospective district judges and promote them, if possible, to the superior court or vice-versa to the Supreme Court. Give them an incentive to work. I believe that this is the right way to do it. This is not the way it has been done, although I have been given some indication that this will not happen again.

This is my objection to this thing. I can question this, it is my right to question the qualifications of some of the judges we have there. I am sure he doesn't remember, but I do, that you have a judge that has been recalled by the Chief Justice because of the amount of dismissal cases that he has let through at one time. This is something for you to consider and tell me how good these people are.

All I suggest to you, and all I really want to get people who are qualified, that have dedicated 15 or 20 years of their lives, and they can't even get a District Court promotion. I submit to you that we are not getting the best people for the promotions and I will stick with it.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: I don't want to belabor this amend-

ment any longer. I thought that it could perhaps be considered by the House and disposed of one way or the other, but I would just point out that if this is a bill to encourage more judges to work on either a full or retired basis, it really escapes me. When a judge can make \$40 more a day by taking his retirement and then working on a per diem basis, each judge that goes on retirement, that position has to be filled by a full-time judge. It really escapes me how this bill is either going to save money or retain judges.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I think the good gentleman from Thomaston, Mr. Gray, has laid it right on the line by supporting the motion to indefinitely postpone this bill. I think his true colors have shown. I think he really doesn't believe that there should be any type of compensation to these individuals.

As I stated before, it is the difference between a pension and a salary. If you don't believe it, you just look at the definition of income. This particular bill, all it allows is for some type of compensation for an active retired judge who serves in a capacity to help and assist the people of this state, to help the courts, in essence, to help the people of the state and help justice of the state.

It is very easy to knock the judges. You know, they are the third branch of government, they are not sitting here. It is easy to tab it a lawyer's bill, but let me tell you, it is very difficult because as years go on you can't use that lawyer's bill argument because there are only seven lawyers left in the Maine Legislature. I know many of you think there are so many of us.

This particular bill, the argument is raised that this would give our active retired judges more money than a person who is serving in a full-time capacity but that is just not the case. An active retired judge would not receive more money in the course of the year. He or she would have to work 100 days to receive an equal amount of money, not salary, or compensation for their time for that particular year.

As I said before, this particular bill, I don't think it was distortion involved with passing this bill, I think this bill was brought forward as a Governor's bill.

The Governor was approached by the Chief Justice of the Maine Supreme Judicial Court at a meeting which I attended and which the Senate Chairperson of the Judiciary Committee attended and told us that we had a problem in the judiciary, we had a fiscal crisis and we had a manpower crisis or a person-power crisis, if you want to use that word, in the judiciary. He suggested at that time that this bill, which was voted upon by both legislative bodies during the last session, and approved, would be resubmitted and hopefully this time the Appropriations Committee would hear the arguments of the Chief Justice and those on the Judiciary Committee who support the bill, and also the arguments of those people in the third branch of government who feel this bill should be enacted into law.

As I said before, it is simple and very easy to sit here and criticize the whole judicial system. It is easy to take pot shots at it, but just don't mix apples and oranges. This bill addresses one particular problem and one particular problem only, and that is to give some financial consideration to those individuals who serve the State of Maine as active retired judges. Forget about the arguments of the people getting off and judges aren't strong on crime—those are not the arguments. The argument is whether or not we feel that a person who serves in that capacity should be rewarded in some way with some financial consideration.

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

Mr. DIAMOND: Mr. Speaker, Ladies and

Gentlemen of the House: There are many, many issues here and I sat and listened to all of them as you have, but there is one issue which to me is overriding and that is the question of economics. I am not really sure that we can afford it. I think you, as individuals, and we as a legislature, might have higher priorities at this time. I look at the price tag and I guess I am not really comfortable saying that I should vote yes for this. I think I would probably feel comfortable voting against this bill, knowing that I am not voting against judges because that is not the case. I have a judge as one of my constituents, a very nice gentleman, and I think very highly of him. However, I think this is a question of spending, the amount of monies that we have available, and I think we should look at it on that basis because that is the overriding issue.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to share about three minutes of your time. I have a very dear friend of mine that has been a judge and a friend of the family for 50 years or more. Something of this nature was brought up in some of our discussions last summer. I asked him if that was a very big item in his traveling back and forth and offering the services that he does. He said, no. He said what would hurt him more than anything else would be denied the chance to be constantly asked for his advice.

The pensions that most of these people get aren't hurting them at all. He and I discussed this many times. The routes that I travel in my district, 64 miles from one end to the other, nothing offers as much advice in my capacity as he does in his. I don't think you are going to find that this is going to stop any of them at this time. They realize as well as we do that the bucks aren't all here.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Westbrook, Mr. Carrier, 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 — Austin, Barry, Benoit, Blodgett, Brodeur, Brown, A.; Brown, D.; Carrier, Carter, D.; Conary, Connolly, Cunningham, Curtis, Damren, Davis, Diamond, Drinkwater, Fowle, Gray, Gwadosky, Hall, Hunter, Immonen, Jacques, E.; Jacques, P.; Kelleher, Kiesman, Lancaster, LaPlante, Leighton, Lougee, Lowe, MacBride, Mahany, Marshall, Martin, A.; McHenry, McSweeney, Michael, Nelson, A.; Paradis, P.; Paul, Payne, Prescott, Rollins, Roope, Sherburne, Smith, Sprowl, Stover, Studley, Theriault, Torrey, Tozier, Twitchell, Vincent, Wentworth, Wood, Wyman.

NAY — Aloupis, Bachrach, Baker, Beaulieu, Berube, Birt, Bordeaux, Boudreau, Bowden, Brannigan, Brenerman, Brown, K.L.; Brown, K.C.; Bunker, Call, Carter, F.; Chonko, Churchill, Cloutier, Cox, Davies, Dellert, Doukas, Dow, Dutremble, D.; Elias, Fenlason, Fillmore, Garsoe, Gavett, Gowen, Hanson, Hickey, Higgins, Hobbins, Huber, Hutchings, Jackson, Kane, Kany, Laffin, Leonard, Lizotte, Locke, Lund, MacEachern, Masterman, Masterton, Matthews, Maxwell, McKean, McPherson, Morton, Nadeau, Norris, Paradis, F.; Peltier, Peterson, Post, Reeves, J.; Sewall, Simon, Small, Soulas, Stetson, Tarbell, Tierney, Tuttle, Violette, Vose, Whittemore.

ABSENT — Berry, Carroll, Dexter, Dudley, Dutremble, L.; Gillis, Howe, Hughes, Jalbert, Joyce, Lewis, McMahon, Mitchell, Nelson, M.; Nelson, N.; Pearson, Reeves, P.; Rolde, Silsby, Strout.

Yes, 59; No, 71; Absent, 20.

The SPEAKER: Fifty-nine having voted in the affirmative and seventy-one in the negative, with twenty being absent, the motion does not prevail.

Thereupon, the Bill was passed to be en-

grossed and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Develop Elderly Congregate Housing in Maine" (S. P. 724) (L. D. 1873) which was tabled earlier in the day and later today assigned pending reference in concurrence.

Thereupon, the Bill was referred to the Committee on Health and Institutional Services in concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Clarify the Procedure in Freight Rate Proceedings Before the Public Utilities Commission Involving Railroads and Water Common Carrier" (S. P. 723) (L. D. 1872) which was tabled earlier in the day and later today assigned pending reference in concurrence.

On motion of Mr. Davies of Orono, the Bill was referred to the Committee on Public Utilities in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Establish a Modified Procedure on Matters before the Public Utilities Commission Relating to Contract Carrier Permits and Special and Charter Bus Licenses" (H. P. 1771) (Governor's Bill) which was tabled earlier in the day and later today assigned pending reference.

On motion of Mr. Davies of Orono, the Bill was referred to the Committee on Public Utilities, ordered printed and sent up for concurrence.

On motion of the gentleman from Lisbon Falls, Mr. Tierney, the House reconsidered its action earlier in the day whereby Bill "An Act to Authorize Bond Issue in the Amount of \$6,000,000 for Improvements to Vocational-technical Institutes" (H. P. 1757) which was referred to the Committee on Appropriations and Financial Affairs.

On further motion of the same gentleman, the Bill was referred to the Committee on Education, ordered printed and sent up for concurrence.

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

Petitions, Bills and Resolves Requiring Reference Business Legislation

Bill "An Act to Amend the Maine Securities Act" (H. P. 1779) (Presented by Mrs. Nelson of Portland) (Cosponsor: Mr. Jackson of Yarmouth) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Enable the State to Protect the People of Maine and its Natural Environment from Damages Resulting from the Discharge of Hazardous Matter" (H. P. 1780) (Presented by Mr. Tierney of Lisbon) (Cosponsors: Mr. Wood of Sanford, Mr. Paul of Sanford and Mr. Brenerman of Portland) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

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

Petitions, Bills and Resolves Requiring Reference Aging, Retirement and Veterans

Bill "An Act to Empower the Board of Trustees of the Maine Veterans Home to Borrow Funds and to Issue Bonds, Notes and Other Ev-

idences of Indebtedness" (Emergency) (H. P. 1781) (Presented by Mr. Carter of Winslow) (Cosponsors: Mr. Churchill of Orland, Mr. Theriault of Rumford and Mr. Hickey of Augusta) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act Pertaining to the Sale of Urea-formaldehyde Insulation" (H. P. 1782) (Presented by Mr. Birt of East Millinocket) (Cosponsors: Mrs. Kany of Waterville and Ms. Brown of Gorham) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

(Later Reconsidered)

(Off Record Remarks)

All matters requiring reference in concurrence, with the exception of House Paper 1782, were ordered sent forthwith to the Senate.

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

Petitions, Bills and Resolves Requiring Reference

Bill "An Act Creating a Pesticide Review Board" (H. P. 1783) (Presented by Mr. Rolde of York) (Cosponsors: Mr. Hall of Sangerville and Mrs. Curtis of Milbridge) (Governor's Bill)

The Bill was referred to the Committee on Agriculture, ordered printed and sent up for concurrence.

Bill "An Act to Include Arrangers of Credit under the Maine Consumer Credit Code and to Amend the Law Concerning Agricultural Loans, Residences, Security and Fines" (H. P. 1784) (Presented by Mr. Paradis of Augusta) (Cosponsor: Mr. Gwadosky of Fairfield) (Governor's Bill)

The Bill was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

Bill "An Act to Increase the Level of the Maine Wage Assurance Fund" (H. P. 1785) (Presented by Mr. Wyman of Pittsfield) (Governor's Bill)

The Bill was referred to the Committee on Labor, ordered printed and sent up for concurrence.

Bill "An Act to Reorganize the Department of Mental Health and Corrections" (H. P. 1786) (Presented by Mrs. Prescott of Hampden) (Cosponsors: Mr. Cloutier of South Portland, Mr. Gray of Thomaston, and Mr. Hughes of Auburn) (Governor's Bill)

Committee on State Government was suggested.

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

Mrs. PRESCOTT: Mr. Speaker, I move that this Bill be referred to the Committee on Health and Institutional Services, ordered printed and sent over for concurrence.

Whereupon, Mrs. Kany of Waterville requested a vote.

The SPEAKER: The Chair recognizes the gentleman from Fort Kent, Mr. Barry.

Mr. BARRY: Mr. Speaker, Ladies and Gentlemen of the House: I am under the impression that this particular piece of legislation deals with the reorganization of a department. I am also under the impression that one of the functions of the State Government Committee deals with reorganization. So I would hope that you would refer this particular piece of legislation to the State Government Committee.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: As my good seatmate has

indicated, governmental reorganization usually goes to the State Government Committee, but that isn't necessarily where it should go. In the last governmental reorganization, the State Government Committee recommended that we include the Department of Mental Health and Corrections and the Department of Human Services under one umbrella with one commissioner.

Perhaps we could break new ground this morning and have this very important piece of legislation referred to the committee that really would have a better understanding and more in-depth understanding of the problem than possibly the members on the State Government Committee. So, even though it has been the precedent, and there is no question about that, in matters of this kind, I can remember several governmental reorganizations that haven't proven out that came out of the State Government Committee.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Hampden, Mrs. Prescott, that this Bill be referred to the Committee on Health and Institutional Services. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Prescott of Hampden requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: It is not easy for me this morning to stand here and argue the reference of a bill, especially when it is my own bill and it is my own committee.

I am sorry that the chairwoman of the State Government Committee and myself could not agree on the reference of this bill, so I am coming to you this morning to ask you to support my motion that this bill go before the Health and Institutional Services Committee.

The State Government Committee has, yes, dealt with the reorganization bills in the past, but I think that this bill belongs before our committee because we have some very important issues, too. They deal with the Department of Mental Health and Mental Retardation. We also, in our committee, confirmed the commissioner who oversees those three departments. On February 6, we will be looking at the possibility of selecting a commissioner for three or two departments, and that we don't know yet.

We would like to have this bill before our committee because we know what the problems are internally with the Department of Mental Health and Mental Retardation, and the administrator is very important to that selection.

One of the things our committee has been very concerned about has been the class action suits that have been filed in the areas of those three departments' responsibilities. The Mental Retardation people have been responsible for the Pineland Consent Decree. That is something that we would like to prohibit from happening within the area of mental health and within the area of corrections. We know the problems first hand with corrections, because on our Committee on Health and Institutional Services, we have one member who serves on the Special Select Committee on Corrections, and also another member who has been involved in numerous correction studies and is very familiar with the background and we are not going to have to reinvent the wheel on what the problems of corrections really are.

One of the things that concerns me, too, is

the fact that the corrections clients we are concerned about, policies that we are concerned about with them, they go to Pineland or they go to Bangor Mental Health Institute or the Augusta Mental Health Institute and it causes a lot of problems for the Department of Mental Retardation and the Department of Mental Health. We are very concerned about that.

The bill will be addressing the transfer of positions from within the Department of Mental Health. We are concerned about the transfer of those positions and we must be involved as a committee in whether or not those transfers should be acceptable.

I would ask that even though this is a reorganization bill, that you consider the fact that it is important to the Committee on Health and Institutional Services because we are concerned about the area of policy and it is very important that we look at the policies that we will be setting if we do separate the Department of Corrections.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: I can certainly understand why the sponsor of this measure would want the bill to go to the Committee on Health and Institutional Services, which she chairs. I could even understand more why the Joint Select Committee on Corrections would be interested in the subject matter contained within this bill. But basically it is obviously a reorganization bill if there ever was one before this legislature, and the State Government Committee exists, more than for any other reason, to deal with the structure of state government.

I ask for your support. The bill was originally referred to the State Government Committee and I ask that you vote against Mrs. Prescott's motion and vote to send this on to the other body referred to the State Government Committee.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Hampden, Mrs. Prescott, that this Bill be referred to the Committee on Health and Institutional Services. All those in favor will vote yes; those opposed will vote no.

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

Mr. WYMAN: Mr. Speaker, I request permission to pair my vote with the gentlewoman from Pittston, Mrs. Reeves. If she were present and voting, she would be voting no; I would be voting yes.

ROLL CALL

YEA — Aloupis, Baker, Beaulieu, Benoit, Berube, Birt, Bordeaux, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K.L.; Bunker, Call, Carrier, Carroll, Carter, F.; Cloutier, Cox, Cunningham, Curtis, Davies, Dellert, Drinkwater, Dutremble, D.; Hall, Hunter, Laffin, Leighton, MacBride, MacEachern, Matthews, McSweeney, Nelson, A.; Norris, Payne, Post, Prescott, Reeves, J.; Rollins, Roope, Sherburne, Soulas, Sprowl, Stetson, Tarbell, Theriault, Tuttle, Vincent, Violette, Vose, Wentworth, Whittemore.

NAY — Austin, Bachrach, Barry, Blodgett, Bowden, Brown, D.; Brown, K.C.; Churchill, Conary, Connolly, Damren, Davis, Dow, Elias, Fenlason, Fillmore, Gavett, Gowen, Gray, Gwadosky, Hanson, Hickey, Higgins, Hobbins, Immonen, Jackson, Jacques, P.; Kane, Kany, Kiesman, Lancaster, Locke, Lougee, Lowe, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McKean, McPherson, Michael, Nadeau, Paradis, E.; Paradis, P.; Paul, Peterson, Sewall, Simon, Small, Stover, Studley, Tierney, Torrey, Tozier, Wood, The Speaker.

ABSENT — Berry, Boudreau, Carter, D.; Chonko, Dexter, Diamond, Doukas, Dudley, Dutremble, L.; Fowlie, Garsoe, Gillis, Howe, Huber, Hughes, Hutchings, Jacques, E.; Jalbert, Joyce, Kelleher, LaPlante, Leonard, Lewis, Lizotte, Lund, Mahany, McHenry, McMahon, Mitchell, Morton, Nelson, M.; Nelson,

N.; Pearson, Peltier, Rolde, Silsby, Smith, Strout, Twitchell.

PAIRED — Reeves, P.-Wyman.

Yes, 53; No, 57; Absent, 39; Paired, 2.

The SPEAKER: Fifty-three having voted in the affirmative and fifty-seven in the negative, with thirty-nine being absent, and two paired, the motion does not prevail.

Thereupon, the Bill was referred to the Committee on State Government, ordered printed and sent up for concurrence.

On motion of Mr. Brannigan of Portland, the House reconsidered its action of earlier in the day whereby Bill "An Act Pertaining to the Sale of Urea-formaldehyde Insulation," House Paper 1782, was referred to the Committee on Energy and Natural Resources.

On motion of the same gentleman, the Bill was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

By unanimous consent, all matters requiring reference were ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mr. Hickey of Augusta, Adjourned until Monday, February 4 at twelve o'clock noon.