

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 Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

HOUSE

Tuesday, March 27, 1979

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

Prayer by the Reverend Eric Kelley of the Cumberland Congregational Church, Cumberland.

Rev. KELLEY: Let us pray! Almighty God, the God who has sent the universe in motion, the God who causes the seasons to come and go in an orderly fashion, the God who causes the tides to rise and fall, the God who has created humankind with unlimited potential for both good and evil, the God who is ultimately supreme ruler over all he has created, your blessing is asked upon the work of this House of Representatives, a body which has been entrusted with the orderly ruling of a small part of your mighty creation, the State of Maine. May they deserve the trust that has been placed in them by the people of our great state, and may this trust be proven by their wise and prudent use of power. May this truly be a House of Representatives, where the views of the folks back home are given more than lip service and campaign promises prove to be more than mere rhetoric.

Finally, O God, grant us all the wisdom to put our minds and hearts in gear before we accelerate in our mouths. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

Bill "An Act Relating to Records of Sales of Used Merchandise" (S. P. 442) (L. D. 1336)

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 Comply with the Federal Air Quality Standards in the Areas where the Air Quality Does not Presently Meet the Federal Standards" (S. P. 425) (L. D. 1316)

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

In the House, was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Increase Merchandising in State Liquor Stores" (S. P. 433) (L. D. 1335)

Bill "An Act to Provide for the Use of Credit Cards at the Kittery Liquor Store Only" (S. P. 434) (L. D. 1337)

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

In the House, were referred to the Committee on Legal Affairs in concurrence.

Bill "An Act to Permit Municipalities to Issue Bonds Under the Municipal Securities Approval Act for Water Supply System Projects." (S. P. 421) (L. D. 1315)

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

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

Bill "An Act Relating to the Location of the Office of Superintendent of Insurance" (S. P. 441) (L. D. 1334)

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

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

Bill "An Act Providing for Administrative Modifications to Property Tax Laws Administered by the Bureau of Taxation" (S. P. 414) (L. D. 1314)

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

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

**Reports of Committees
Leave to Withdraw**

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Raise the Ceiling on the Minimum Wage to \$4" (S. P. 127) (L. D. 305)

Came from the Senate with the Report read and accepted.

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

Non-Concurrent Matter

Bill "An Act to Clarify the Conflict of Interest Statutes to Include Law Associates and Former Law Associates and to Include both Classified and Unclassified State Employees" (H. P. 1056) (L. D. 1307) which was referred to the Committee on Judiciary in the House on March 19, 1979.

Came from the Senate referred to the Committee on State Government in non-concurrence.

In the House: On motion of Mrs. Kany of Waterville, the House voted to recede and concur.

**Petitions, Bills and Resolves
Requiring Reference**

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

Appropriations and Financial Affairs

Bill "An Act to Appropriate Funds for Computerization of Records in the Office of the Secretary of State" (H. P. 1205) (Presented by Mr. Peterson of Caribou)

(Ordered Printed)

Sent up for concurrence.

Tabled and Assigned

Bill "An Act to Implement a Plan for the Prevention and Treatment of Alcoholism and Alcohol Abuse" (H. P. 1206) (Presented by Mr. Brodeur of Auburn)

Committee on Appropriations and Financial Affairs was suggested.

On motion of Mrs. Mitchell of Vassalboro, tabled pending reference and tomorrow assigned.

Energy and Natural Resources

Bill "An Act to Enable Delegation of the Prevention of Significant Deterioration of Air Quality Program" (H. P. 1207) (Presented by Mr. Blodgett of Waldoboro)

(Ordered Printed)

Sent up for concurrence.

Health and Institutional Services

Bill "An Act Concerning State Payments to Physical Therapists in Certain Nursing Homes" (H. P. 1208) (Presented by Miss Brown of Bethel)

Bill "An Act Amending Admission Procedures at Pineland Center and Elizabeth Levinson Center" (H. P. 1209) (Presented by Mrs. Nelson of Portland)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Enabling the State to Enter into an Interstate Compact on the Emotionally Distordered Offender" (H. P. 1210) (Presented by Mrs. Mitchell of Vassalboro) (Cosponsors: Mrs. Prescott of Hampden, Mrs. Payne of Portland, and Mrs. Sewall of Newcastle)

Bill "An Act to Establish an Office of Mediation in the Area of Domestic Relations" (H. P. 1211) (Presented by Mrs. Nelson of Portland)

Bill "An Act Concerning Preservation Interests under the Property Laws Pertaining to Preserving or Restoring Historic Property" (H. P. 1212) (Presented by Mr. Hughes of Auburn)

RESOLUTION, Proposing an Amendment to

the Constitution of Maine to Provide for Five-year Terms for Judges Instead of Seven-year Terms and to Provide for Legislative Action upon Public Petition of Judicial Misconduct (H. P. 1213) (Presented by Mr. Laffin of Westbrook) (Cosponsor: Mrs. Martin of Brunswick)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act Relating to the Employment of Minors and Overtime Pay" (H. P. 1214) (Presented by Mr. Wyman of Pittsfield) (Cosponsors: Mr. Fillmore of Freeport, Mr. Soulas of Bangor, and Mr. Michael of Auburn)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act Concerning Part-time Licenses under the Liquor Statutes" (H. P. 1215) (Presented by Miss Brown of Bethel)

(Ordered Printed)

Sent up for concurrence.

Public Utilities

Bill "An Act to Require the Bureau of Civil Emergency Preparedness to Contract for the Inspection of Dams" (H. P. 1216) (Presented by Mr. Violette of Van Buren)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act to Promote Greater Efficiency through Alternative Working Hours for State Employees" (H. P. 1217) (Presented by Mrs. Mitchell of Vassalboro) (Cosponsors: Mr. Paradis of Augusta, Mrs. Nelson of Portland, and Mrs. Reeves of Pittston)

(Ordered Printed)

Sent up for concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 1201) recognizing that: Captain Walter Oisen of the City of Portland, Ladder 6, with great courage and devotion to duty saved a life on January 12, 1978.

Presented by Mrs. Beaulieu of Portland.

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

An Expression of Legislative Sentiment (H. P. 1202) recognizing that: Stephen Thibeault, firefighter for the City of Portland, Ladder 6, with great courage and devotion to duty saved a life on January 12, 1978.

Presented by Mrs. Beaulieu of Portland.

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

An Expression of Legislative Sentiment (H. P. 1204) recognizing that:

The Black Raiders of Winslow High School coached by Harold Violette, have won the State Class B Hockey Championship for 1979, their second consecutive win of this title.

Presented by Mr. Carrier of Winslow (Cosponsors: Mr. Boudreau of Waterville and Senator Teague of Somerset)

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

On motion of Mrs. Beaulieu of Portland, the following Joint Order: (H. P. 1203)

Whereas, home mortgage lenders typically charge higher interest rates and require larger down payments with respect to island property than mainland property; and

Whereas, property insurers typically charge higher insurance premiums with respect to islands by working families and people on fixed incomes and artificially depress the inland real estate market; and

Whereas, Maine's islands are increasingly integrated with the life of the State's mainland and should be fully accessible for year-round as

well as seasonal living; and

Whereas, police and fire protection on many islands are equivalent to that afforded mainland property and there is little or no apparent reason for the existing disparity in treatment by lenders and insurers; now, therefore, be it

Ordered, the Senate concurring, that the Legislative Council shall, through the Joint Standing Committee on Business Legislation, study the nature and extent of and reasons for lender and insurer discrimination against island property, the consequences of the discrimination and whether and how the State might act to reduce or eliminate the discrimination; and be it further

Ordered, that the Joint Standing Committee on Business Legislation shall complete this study no later than December 1, 1979, and submit to the Legislative Council within the same time period its findings and recommendations, including legislative recommendations; and be it further

Ordered, that the Department of Business Regulation shall provide any assistance deemed necessary by the committee in undertaking this study; and be it further

Ordered, upon passage in concurrence, that suitable copies of this Order by transmitted forthwith to the agencies as notice of this directive.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, I request a division.

The SPEAKER: The pending question is on passage of the Joint Order. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Beaulieu of Portland 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 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 Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain why this order is here. Instead of trying to use my own words, I am simply going to read from a letter that was sent to me. The order is being supported by the islanders and this should explain to you why this order is here.

A lady named Charlotte Scott, who is pretty well known to most of you, three years ago tried to buy a house on Peaks Island in Portland. When she went to the bank, she was told that she would have to pay as much as 33 percent down and that the interest rate on that particular structure would be 9 3/4 percent, which is a heck of a lot more than you pay for property on the mainland.

To quote her, she said, "I was appalled. I asked him if the bank also charged higher rates for property in other sections of Portland due to higher rates for property in other sections of Portland due to higher crime rates, etc. I mentioned the fact that in New York and other large cities this practice was called redlining, and I inquired as to whether or not this particular bank would apply the same name. The response was that summer property was requiring even higher down payments and was requiring 10 percent mortgage payments.

I eventually went to another bank where I had personal business contacts and acquired a mortgage for 8 3/4 percent interest, 20 percent down and as long as I wanted to pay it off, 25 years was their limit. Another bank had requested 20 years and stated they would not consider a longer period of time. I have since

spoken to other real estate agents and they say the islands have been discriminated in this manner many times.

"I believe that this practice of blatant discrimination is horrendous. Peaks Island is part of the City of Portland and therefore persons choosing to live in this neighborhood should be entitled to the same rules pertaining to bank loans and mortgages as people choosing to live on the Western Prom. As an individual, my credit rating is excellent and I resent being asked to pay higher rates simply because a bank does not like my choice of neighborhoods.

"For banking institutions to get away with this type of discrimination keeps the property values in my neighborhood from increasing at the same rate as other Portland property. Many young people who might be interested in buying property on our island could and should be discouraged by the higher down payment requirements, the shorter length of time for repayment and higher interest rates. For any bank to practice this type of discrimination is especially frightening and appalling, because most banks in our state are known for setting bank rates in this state."

The insurance factor, ladies and gentlemen, many of the islanders in my district along the coast do not have insurance on their property because they are charged far higher rates and yet, in the islands in my district we have full-time police officers who are there and literally the islanders are better protected than I am because the police officer can leave my district; when he is on the island, he can't.

I know of two families on the islands who tried to buy property with their G. I. loans and they were refused. So, I really feel that not only for the islanders in the southern end of the state but for all the islanders on the coast, that we should try to find out what kind of practices are being exercised and if indeed there is discrimination, then we should end it as a state.

The islanders support it, because if this kind of trend continues, when the money gets tighter for buying homes, the islanders are the first ones that are going to feel it. We believe in populating the islands rather than industrializing them or leaving them as wildland. So, I brought the order forward at the request of the people that I represent. I feel the case is significant enough for us as a legislature to take a look at it and take any corrective measures, should we have to, and that is why the order is here.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I am bringing to you a very negative approach to study orders of this type. I would hope that we would hear better reasons than we have heard this morning before we pass one. I would certainly hope that we would hear that complaints had been addressed to our Bureau of Banking and our Bureau of Insurance before we launch the legislature into a study of this kind, and I hope we can put it to rest this morning.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I feel obliged this morning to talk about this order which I just saw and read, because it claims in this particular order, I don't know about the claim of the person the letter was from, but it is untrue. I say to you it is untrue because I own some property on Peaks Island, a small place, and this was not the case with me. I could get a mortgage at 9% or 8%. I think today that is a very low rate of interest. I borrowed some money on some other property a while back, about two or three years ago, and I had to pay 10. This was not Peaks Island property but I did borrow at one time on Peaks Island property and I thought that 8 or 9 percent on today's market is very normal and reasonable.

Another thing is the rates of insurance on Peaks Island, on my property, which is a

common type of property, are not any higher than any other place. As a matter of fact, either through a mistake or otherwise, my insurance rate on Peaks Island is lower than the one in Portland, and I think you have better protection in Portland as far as fire protection. True enough, on Peaks Island you do have one old fire truck down there and some people train for it. You do have police protection 24 hours a day. One man is on, to my knowledge.

I personally know a lot of people on Peaks Island. I don't know that any of them — I despise the word discrimination, I always have — I think that you have to make it on your own credit, on your own character, and I believe that if somebody would tell me what I have heard this morning, I would actually check on it, because if that particular person or any other person that lives on Peaks Island and has good credit and a good job, income and apparently seems able to pay, if they cannot get a mortgage, as a matter of kindness I would help them to get a mortgage, and I think they are available. I don't want to name the bank, but certainly the business banks in Portland are available for a mortgage.

Now, again, when you talk about 9% or 8 3/4 percent, I think that is a very, very normal rate today. It is like anything else, the banks today, by shopping you can get a little lower rate from one bank but usually you have to sacrifice at the time of the mortgage.

I want to help the people of Peaks Island, and I am going to vote for this bill, although totally I don't believe in the resolution and the content of the resolution because, in my opinion, they are false as presented.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I do not wish to decry what has just been said by the Representative from Westbrook. I work with the islanders and I have been doing it for three years. When a man like Howard Heller or Russell Edwards, a former legislator in this body, can substantiate the fact that there are enormous problems with island property, then I have to give them the credibility. When CBIDA, or an organized group of islanders, not just on Peaks but Clift and Long, support and ask me to take a look at this situation or ask me to ask you to take a look at it, I have to give them credibility. They live with these problems day in and day out.

So, I am sorry to say that I could stand here and decry and counterpoint what Representative Carrier has said, I will not choose to do that. I represent that district, I live there. I work with these people, I know what their needs are, and if I can respond to the needs of your communities, then I ask you to respond to the needs of mine.

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

Mr. WHITEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I wish that somebody would come to Skowhegan and help us get our interest rates lowered from 10 percent down to 8 1/2 or 9 percent. I certainly think this order is out of place, and if there is any problem, go to the Banking Commission. I think that if they can get interest rates at anything under 10 percent, they should feel very fortunate.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I hope every person in this House will support this order, because this is another prime example of veterans being discriminated against and not being allowed to buy property under the veteran loan program: They earned this right; they served their country. Get behind the veterans in this state. Too many people have looked down on them. Nobody wants to serve their country anymore.

Mrs. Beaulieu of Portland was granted per-

mission to speak a third time.

Mrs. BEAULIEU: Mr. Speaker and Members of the House: This is not an order that is going to ask for interest or insurance rates to be lowered. It is an order to find out if what is being charged is appropriate. I did go to the Bureau of Banks and Banking, and this is what I got for a response, and I quote: "Concerning your proposal for a study of the home mortgage situation on the islands, I have been advised by the Bureau of Banks and Banking that mortgage rates and down payments required are higher for the reason that the lending community believes on the basis of its experience that the market in island real estate is less stable and more susceptible to economic fluctuations and as a result represents less satisfactory security for the lender than mainland property; hence, higher interest rates for a greater risk and a larger down payment for more equity." That is what I got for a response, so indeed the rates are higher and I am saying they should not be, because we can substantiate better fire protection over the past year alone in Portland, and better police protection, so we would be asking for them to take a look and see if they can't reevaluate their position. But the Bureau of Banks and Banking is on record as already saying that they charge higher rates.

The SPEAKER: A roll call has been ordered. The pending question is on passage of the Joint Order, H. P. 1203. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Bachrach, Baker, Beaulieu, Benoit, Berry, Birt, Blodgett, Brennerman, Brodeur, Brown, A.; Brown, K. C.; Carrier, Carroll, Carter, D.; Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Dutremble, D.; Dutremble L.; Elias, Fowlie, Gowen, Hickey, Hobbins, Jacques, E.; Kane, Kany, Kelleher, Laffin, Locke, MacEachern, Martin, A.; Maxwell, McHenry, McKean, McMahon, Michael, Mitchell, Nadeau, Neslon M.; Nelson N.; Paul, Pearson, Post, Reeves, P.; Rolde, Simon, Soulas, Theriault, Tierney, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Wyman.

NAY—Aloupis, Austin, Barry, Berube, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K. L.; Bunker, Call, Carter, F.; Churchill, Conary, Cunningham, Davis, Dexter, Doukas, Dow, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gould, Gray, Gwadosky, Hall, Hanson, Higgins, Howe, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Joyce, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, Masterton, Matthews, McPherson, McSweeney, Morton, Nelson, A.; Norris, Payne, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Torrey, Tozier, Wentworth, Whittemore.

ABSENT—Brannigan, Damren, Dellert, Dudley, Gillis, Huber, Hughes, Jalbert, LaPlante, Lizotte, Paradis, Peltier, Prescott, Strout, Tarbell.

Yes, 63; No, 73; Absent, 15.

The SPEAKER: Sixty-three having voted in the affirmative and seventy-three in the negative, with fifteen being absent, the Order fails of passage.

An Expression of Legislative Sentiment (H. P. 1218) recognizing that:

Henry and Goloria Stover of Belfast have served on a full-time volunteer basis with unfailing dedication as executive secretaries to the Waldo County Chapter of the American Red Cross since the spring of 1974

Presented by Mr. Drinkwater of Belfast (Co-sponsors: Mr. Lowe of Winterport, Mrs. Hutchings of Lincolnville, and Mr. Tozier of Unity) The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker and Members of the House: In a time when volunteers

are hard to come by, Henry and Gloria Stover have been active as volunteers in many community projects. They have spent the past five years as full-time volunteers for the American Red Cross. We ran out of money five years ago in our chapter and we were in a position where we had to close it. They had retired from their business, so they offered to take it over. They not only have spent five years as full-time volunteers, but they had an emergency phone put in their home, which they paid for because we had no money, and they took the emergency calls at nighttime, also. So this is really a full-time volunteer.

Plus this, they have been active with several other volunteer outfits. They have done a lot of work with the Waldo County Citizens Association, which is a large organization of volunteers, and the Waldo County Law Enforcement Association, who are also volunteers in their own right for certain things and not always just law enforcement items.

These two people will be very difficult to replace, perhaps impossible. The Waldo County delegation would like very much to say "Thank you, thank you very much for what you have done and for the reason that you have done so much."

Thereupon, the Order received passage and was sent up for concurrence.

A Joint Resolution (H. P. 1219) in memory of Alice Hobbins of Biddeford
Presented by Mr. Wood of Sanford

The Resolution was read and adopted and sent up for concurrence.

House Reports of Committees

Leave to Withdraw

Mr. Theriault from the Committee on Aging, Retirement and Veterans on Bill "An Act Relating to Adjustment of Retirement Allowance for Retirees of the State Police" (H. P. 230) (L. D. 277) reporting "Leave to Withdraw"

Mr. Theriault from the Committee on Aging, Retirement and Veterans on Bill "An Act Relating to the Definition of 'Teacher' under the Maine State Retirement System" (H. P. 115) (L. D. 117) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought Not to Pass" on Bill "An Act to Provide Minimum Retirement Benefits for Mrs. Beatrice H. Colbath of Bangor" (H. P. 652) (L. D. 812)

Report was signed by the following members:

Messrs. TEAGUE of Somerset
LOVELL of York
SILVERMAN of Washington
— of the Senate.

Messrs. HANSON of Kennebunkport
DELLERT of Gardiner
CHURCHILL of Orland
PAUL of Sanford
THERIAULT of Rumford
HICKEY of Augusta
LOWE of Winterport
STUDLEY of Berwick
REEVES of Newport
— of the House

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

Report was signed by the following member:
Mrs. NELSON of Portland
— of the House.

Reports were read.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: The sponsor of this piece of legislation is not here today, and I would ask someone if they would be kind enough to table

this until she returns.

Whereupon, on motion of Mr. Birt of East Millinocket, tabled pending acceptance of either Report and tomorrow assigned.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act to Allow Prorated Benefits for Times When a Person is Available for Work but Cannot Work for Important Personal Reasons" (H. P. 345) (L. D. 444)

Report was signed by the following members:

Mr. MCHENRY of Madawaska
Mrs. MARTIN of Brunswick
Messrs. FILLMORE of Freeport
DEXTER of Kingfield
WYMAN of Pittsfield
BAKER of Portland
TUTTLE of Sanford
Mrs. BEAULIEU of Portland
— of the House.

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

Report was signed by the following members:

Messrs. PRAY of Penobscot
SUTTON of Oxford
LOVELL of York
— of the Senate.

Mr. CUNNINGHAM of New Gloucester
Mrs. LEWIS of Auburn
— of the House.

Reports were read.

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

Mr. WYMAN: Mr. Speaker, I move the Majority "Ought to Pass" Report.

The SPEAKER: The gentleman from Pittsfield, Mr. Wyman, moves that the Majority "Ought to Pass" Report be accepted.

The Chair recognizes the gentleman from Brooklin, Mr. Bowden.

Mr. BOWDEN: Mr. Speaker, Ladies and Gentlemen of the House: I am the sponsor of this bill and I would like to take a couple of minutes just to explain what we are trying to do here.

I believe the issue is a simple one and will have a minimal effect on the unemployment fund. Indications from the Department of Manpower Affairs have borne this out.

Let me explain how this legislation came about, and perhaps you will agree with me that such a change in the law is needed. In the town of Stonington, which is in my district, is located the sardine canning factory. In order for that factory to operate, it must have herring to process. There are weeks when fish are not available at all or are available perhaps for only one or two days. When such circumstances arise, those who are employed by the factory cannot work except on the days when fish are available. It is my understanding that such work as defined under the law is partially unemployed and they may be entitled to certain benefits under the unemployment compensation law. But in such a situation, it is important that the worker be available if he or she is called upon by the factory. That is where the problem arises.

Under present law, if a worker refuses to accept an offer of suitable work for which he is reasonably fitted, he may be disqualified by the Maine Employment Security Commission from unemployment compensation until he has earned eight times his weekly benefit amount. An exception is provided if the refusal was for a necessitous and compelling reason. In which case, the disqualification is applicable only to the week in which the refusal occurred, but no proration of benefits is afforded and that is what causes the problem for the Stonington factory workers.

Let me give you a specific example. Suppose Mrs. Jones had scheduled a doctor or dentist appointment well in advance. We all know that

short of an emergency, you don't just walk into an office these days and expect to see the doctor. The day comes for the appointment, and just before Mrs. Jones heads out the door, a call comes from the factory telling her that they have fish today and she is needed. That may well be the only day of the week that the factory will operate, so a worker would normally be entitled to unemployment benefits for the remaining days of the week under present law. But if Mrs. Jones keeps her doctor's appointment, she is disqualified from any such benefits, even if she is available and willing to work on every other day of the week. Had there been work on the other days, she would have been present and would have received most of a week's pay. But what if there wasn't work? Why then should she lose everything, even though she was available for work on every day but one?

With the amendment proposed by L. D. 444, she could, if the commission finds that her refusal to work was for a necessitous or compelling reason, receive prorated benefits for the time she was available but not called. The bill does not seek benefits for any day in which there was work for the claimant. The safeguards against abuse, I believe, are still there. The commission must decide in each case whether the cause for refusal to work was necessitous or compelling, and I would expect that such a judgment is not lightly made.

Ladies and gentlemen, I would urge you to support the Majority "Ought to Pass" Report.

Thereupon, on motion of Mr. Wyman of Pittsfield, the Majority "Ought to Pass" Report was accepted, the Bill read once, and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act Relating to Recoupment of Erroneous Payments by the Employment Security Commission" (H. P. 308) (L. D. 419)

Report was signed by the following members:

Messrs. SUTTON of Oxford
LOVELL of York

— of the Senate.

Messrs. TUTTLE of Sanford
DEXTER of Kingfield
Mrs. LEWIS of Auburn
Messrs. WYMAN of Pittsfield
CUNNINGHAM of New Gloucester
FILLMORE of Freeport
Mrs. MARTIN of Brunswick

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-128) on the same Bill.

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate

Mr. McHENRY of Madawaska
Mrs. BEAULIEU of Portland

— of the House.

Reports were read.

On motion of Mr. Wyman of Pittsfield, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Divided Report

Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-127) on Bill "An Act to Adjust the Penalty Assessed Against Small Employers under the Employment Security Law" (H. P. 310) (L. D. 400)

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate.

Mr. TUTTLE of Sanford
Mrs. BEAULIEU of Portland

Mrs. LEWIS of Auburn
Messrs. DEXTER of Kingfield
FILLMORE of Freeport
CUNNINGHAM of New Gloucester
Mrs. MARTIN of Brunswick
Messrs. BAKER of Portland
WYMAN of Pittsfield

of the House.

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

Report was signed by the following member:

Mr. McHENRY of Madawaska

— of the House.

Reports were read.

On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" on Bill "An Act Concerning Removal of Unattached Nonmembers from Indian Reservations" (H. P. 398) (L. D. 505)

Report was signed by the following members:

Messrs. FARLEY of York
COTE of Androscoggin

of the Senate.

Messrs. STOVER of West Bath
CALL of Lewiston

Ms. BROWN of Gorham
Messrs. SOULAS of Bangor
MAXWELL of Jay

McSWEENEY of Old Orchard Beach
DELLERT of Gardiner

Miss GAVETT of Orono
Mr. VIOLETTE of Van Buren

— of the House.

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

Report was signed by the following members:

Mr. SHUTE of Waldo

— of the Senate.

Mr. DUDLEY of Enfield

— of the House.

Reports were read.

On motion of Mr. Soulas of Bangor, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

Consent Calendar

First Day

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

(S. P. 222) (L. D. 606) Bill "An Act to Permit the Retirement Earnings Limitation to Increase as Cost-of-Living Increases in Retirement Benefits are Granted" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(S. P. 107) (L. D. 212) Bill "An Act to Restrict the Placing of Hazardous Objects on Utility Poles" Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-52)

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 28, 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. 592) (L. D. 736) Bill "An Act to Facilitate the Treatment of Minors for Alcohol and Drug Abuse Problems"

(H. P. 311) (L. D. 407) Bill "An Act to Exempt Part-Time Musicians from the Unemployment Compensation Tax"

(H. P. 309) (L. D. 427) Bill "An Act Relating to Revisions of the Occupational Safety and Health Statute and to Conform the Occupational Safety and Health Rules and Regulations to

Federal Requirements" (C. "A" H-129)

(S. P. 136) (L. D. 313) Bill "An Act to Amend the Geologists and Soil Scientists Certification Act" (C. "A" S-48)

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

Passed to be Engrossed

Amended Bills

Bill "An Act to Provide Interpreter Service for the Hearing Impaired" (S. P. 80) (L. D. 157) (S. "A" S-49 to C. "A" S-44)

Bill "An Act to Increase the Legally Authorized Length of a Combination Tractor-trailer Operating Upon the Roadways of the State of Maine" (H. P. 328) (L. D. 383) (C. "A" H-124)

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

Passed to be Enacted

Emergency measure

An Act to Allow State Championship Athletic Teams and Athletes the Right to Participate in New England Championship Events in Competition (H. P. 901) (L. D. 1117) (C. "A" H-106)

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.

Whereupon, Mr. Tuttle of Sanford 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 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 passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Bordeaux, Boudreau, Bowden, Brenerman, Brodeur, Brown, A.; Brown, D.; Brown, K.C.; Carroll, Carter, D.; Chonko, Churchill, Cloutier, Conary, Connolly, Curtis, Davies, Davis, Dexter, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fillmore, Fowlie, Gavett, Gould, Gowen, Gray, Gwadosky, Hanson, Hickey, Higgins, Hobbins, Huber, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, Kelleher, Kiesman, Laffin, Lancaster, Leighton, Leonard, Lewis, Locke, Lowe, MacEachern, Mahany, Martin, A.; Masterman, Masterton, Matthews, Maxwell, McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Payne, Post, Reeves, P.; Rolde, Rollins, Roope, Sewall, Sherburne, Simon, Small, Soulas, Sprowl, Stetson, Stover, Studley, Theriault, Tierney, Torrey, Tuttle, Twitchell, Vincent, Violette, Vose, Wentworth, Wood, Wyman, The Speaker.

NAY — Austin, Brown, K.L.; Bunker, Call, Cartier, F.; Cox, Cunningham, Drinkwater, Fenlason, Garsoe, Hall, Hunter, Lougee, Lund, MacBride, Marshall, McPherson, Nelson, A.; Pearson, Peterson, Reeves, J.; Silsby, Smith, Whittemore.

ABSENT — Berry, Blodgett, Brannigan, Carrier, Damren, Deller, Dudley, Gillis, Howe,

Hughes, Jalbert, LaPlante, Lizotte, Peltier, Prescott, Strout, Tarbell, Tozier.

Yes, 109; No, 24; Absent, 18.

The SPEAKER: One hundred nine having voted in the affirmative and twenty-four in the negative, with eighteen being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

Passed to be Enacted

An Act to Permit Participating Local Districts of the Maine State Retirement System to Discontinue Special Retirement Benefits Prospectively (H. P. 361) (L. D. 470)

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

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I ask you to please not enact this bill.

The bill before you purports to protect local municipalities from what they call runaway pension plans. The bill also indicates that it will not distress current bargaining processes for men and women who are under the pension plan now. Unfortunately, I think this bill should have been sent to both the Committee on Aging and Retirement and the Committee on Labor, because reality is that this legislation which supposes to change one statute thereby negates another, and that is a real and vitally important issue. Let me explain.

Under the Maine State Retirement System, municipalities may contract with the system for pension plans. The contract is completely funded by the municipalities and/or its employers, depending on what the local unit deems appropriate. Each community does not have the same system. This is a completely local option at this point, and in many towns and cities across the state, the retirement plans are part of negotiated agreements. These agreements are for periods not to exceed three years, pursuant to the provision of the municipal public employees' labor relations law. Therefore, under title 26, chapter 9-A, subsection 1-C, which I have copies of on my desk, the obligation of bargaining wages, hours, working conditions, grievances, arbitration, etc., are left on the table. Pension benefits, for a long time now, in this state anyway, are considered wages, or deferred wages to be more specific. The problem is that the local employers and employees have a bona fide history of bargaining pensions. L. D. 470 would negate this in the further bargaining and reserves to management and management only to the exclusive right to implement any program they wish without regard to its employees, be they current or future.

Some will argue that this bill would grandfather current pension programs. I say — not true where bargaining contracts exist. The reason for that is, when a contract expires, all items, including pensions are renegotiated, which means that grandfather clauses are really lost for the duration of the agreement, and the Maine Labor Relations Board has ruled numerous times that the contracts and benefits are not automatic, that each contract is a new ball game. So, we have a bill here, ladies and gentlemen, that will change title 5 and then have the effect of removing pensions from the negotiating process under title 26. That is the problem with the bill.

There is nothing at this time that would preempt municipalities from bargaining, except my understanding is that if they already have a current bargaining agreement, you cannot reclassify or set up different classes. I think that can be resolved in other ways but not under this bill.

I urge you not to support enactment, to vote no, as I intend to and, Mr. Speaker, when the vote is taken, I would ask for the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I am against L. D. 470 because, in my opinion, if enacted it will cause fragmentation of the present retirement system.

I have talked to many firemen and many police, many people who are involved in the present retirement system. In the long run, in my opinion, it would result in inequitable treatment to the members in a collective bargaining unit. Also, a local district may unilaterally at any time reduce or alter benefits for any class of its employees which, in my opinion, makes the bill economically unsound and dangerous to the workers' right to organize.

I would hope you would vote against the passage of this bill.

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

Mr. MORTON: Mr. Speaker, I am sorry I didn't speak loudly enough the first time for the Speaker to hear me, and I don't blame him a bit.

Mr. SPEAKER, Ladies and Gentlemen of the House: This is a bill which I sponsored and it is a bill which is absolutely necessary for the future of pension plans and the future of special pension plans for special classes of people.

The gentlelady from Portland used the word 'runaway' and I would only address that with one example, although there are many throughout the state, but the fact remains that in the City of Portland the class for firemen has gone up 100 percent from 1976 to the prospective year of 1980. I submit to you, ladies and gentlemen, that down the road somewhere, the people of the City of Portland or any other city are just not going to be able to accept these vastly, rapidly accelerating pension plan costs. They have got to have an avenue to provide something else.

However, the gentlelady from Portland, in her remarks, did make what I consider to be a couple of errors, and I want to make the record one hundred percent clear on this. She said that pensions rightly are considered wages and hence are not subject to arbitration, but she did not point out that in her opinion this affected all employees, because contracts can expire in one, two or three years. And I would call your attention to the title of the bill and the language of the bill, because what it is talking about and what our intention is and what legislative intent is, and I don't believe anyone here on the floor today can refute this, because it is An Act to Permit Participating Local Districts of the Maine State Retirement System to Discontinue Special Retirement Benefits Prospectively. We are talking about future employees. No one is going to have anything changed that is presently in existence — no present employee is going to have his plan changed. That is not the intent of this bill.

There is only one reason that this bill exists anyway, and this is the way to the thing and now I want you to really listen carefully to what I have got to say — the only reason this bill is before you is because by the rules of the retirement system, the retirement system will not accept more than one plan for a class of employees in a given municipal participating district. This bill would change only that and nothing else. It would allow the retirement system, if a municipality negotiated or if they don't have a union, of course, if they decided on their own, but if they negotiated a different plan for prospective employees, employees who are not now working but who would, if they did come to work, be apprised of the changed system and understand the conditions of which they were coming to work, this bill would allow the retirement system to accept that plan. That is all it does. It allows more than one plan for one class of employees in a given participating district. That is what it is all about. We only want the opportunity to go to the retirement system with a different plan for future employees. I can't say it any more simply than

that.

This bill had a unanimous report from the Committee on Aging, Veterans and Retirement. The committee understood it well and I trust this morning that you will enact this bill.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to support that gentlelady from Portland by the way of Eagle Lake. I am proud of her that she stood to oppose this bill.

I am also proud of the gentleman from the Chester Greenwood country in that he cited Portland. This truly is a Portland bill. It tried to surface and just couldn't make it in southern Maine.

This bill has been lobbied well out in the hallways by one man from the City of Portland upper echelon. Yes, Portland chose not to travel the route up the coast to find the sponsor but went into the inlands and hinterlands, and they being so industrious, they did find a sponsor in Farmington.

This bill will be one step away, if passed, from destroying the participating districts under the Maine State Retirement System. It is a blatant attempt by one municipality to put its hand in the cookie jar.

When the pension plan is assigned or is accepted, it is a three-way contract between the municipality, the Maine State Retirement System and the employee. When the employee has earned the credit to retire, he directly notifies the state that he has complied with the law and is granted his retirement. Then, the contract, via statute, is reduced to between the employee and the Maine State Retirement System. Yes, they want more things to bargain with but they want to dip into that cookie jar.

I urge you to support the death of this bill. Although it is a Portland bill, it would be truly a nightmare in my community and your community.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: I disagree with my friend, Mr. Joyce, when he says that Portland is the only city affected. My town is affected, very much affected, and I will go into details on this.

This is one bill that will not cost the state anything. It does not affect state employees or teachers. In fact, no present member of the retirement system is affected by it. The only ones that would be affected are those people that would be employed by the district after the effective date of this bill and then the entrance of these people into the retirement system and the plan they would have, would be negotiable. Those now employed would still be under the plans they are now working under. Let me emphasize this, those now employed would not be affected.

Ladies and Gentlemen of the House: Many of you may wonder what I am talking about when I refer to districts. Districts are groups other than people working for the state, who are teachers. There are about 240 of these districts with 10,510 active members and 2,178 inactive members in the retirement system. All these figures are in that book that you received last weekend, in which our gentlelady, our chairperson on our committee asked you to look over during the last weekend. These districts, which are named and enumerated in this book, are cities, towns, counties, SAD's and miscellaneous groups, the miscellaneous groups running from the Greater Portland Council of Government to the Maine County Commissioners Association. Some districts may have a large membership, others may have as few as two or three members, some municipalities have more than one district.

In my own town, we have three. One is comprised of the fire and police. One is of all other town employees that are in the second district. These include our town manager, clerks, secre-

tary, highway department workers and school janitors. The third district is the employees of the water district.

I imagine that every member of this House has at least one retirement district in his legislative district. In spite of what the opponents of this bill would have you believe this is not an anti-labor bill. This is, and I want to emphasize this again and again and, if necessary, shout it from the rooftops, this is a pro-taxpayers' bill, the property-owner taxpayer in some cases, the taxpayer least able to afford this increasing burden. Let's not forget for one moment that many union members are property owners and are in the forefront of the battle over property taxes. In my home town, most property owners are union members. They resent the fact that their taxes keep going up and up year after year, and when they find about 10 percent of the total appropriations, including the school department budget goes for retirement payment. I can assure you that they are less than happy.

At our town meeting a few weeks ago, the people at the meeting were so frustrated in their inability to cut the budget that, at one point, one person got up and shouted, "let's cut out all retirement costs".

To illustrate how these calls for retirement have got out of hand, let me give you the actual figures from my home town. There was appropriated at the town meeting I just referred to, to be paid to the Maine State Retirement System, \$146,200 for police and fire department retirement benefits. That was 34 percent of the total salary account for both departments. This was for 28 active and 13 retired personnel. \$45,375 was appropriated for the retirement fund of all other employees, less than one-third that was appropriated for the police and fire department and this amount was for 103 active employees and 30 retired personnel, almost four times the number of persons covered than by the police and fire appropriations. The total budget appropriated to run the town, excluding the school department, was \$1,950,000.

This is the reason this bill was presented. My own town officials wanted the Maine Municipal Association to draw up a bill that would be fair to all concerned. They found out they were not the only municipalities having this same problem and this was the one bill that evolved.

You must have noticed all the cities and towns are having financial problems. New York City, being the major one that comes to mind at this time. You can bet that the cost of retirement had a lot to do with it. You should know that the reason most towns get into this mess is the fact that the municipal officials were trying to get out of paying large salary increases that were being demanded and thought increasing retirement benefits was a cheap way of getting out of it. It is very evident that he never had expert opinion on future costs or this never could have happened.

The last session we had one town that wanted to get out of this system, Cranberry Isles. It was permitted to do so. This year we have another town going out and I imagine as time goes on and the districts see what it is costing them, there will be more of them wanting to get out.

For all these reasons, I hope you vote to pass this Bill.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I want to tell you that we hope that you will follow Mr. Theriault, because from my little small town of Orland with the population of 1300 people, we are paying the retirement for six retired selectmen who never earned more than \$300, \$500 and \$700 a year. They are receiving a minimum pension of \$100 a month right now and they are making up that difference. It costs my little town close to \$18,000 a year and it doesn't affect those that already joined, that are already members, but it

will prevent some of these that can make the ruling in their home town, right now, they can put an article in the town warrant that all future ones, unless they earn a minimum amount, they will not be allowed to join the retirement system.

We certainly need this to give the towns the alternative of either joining or continuing this retirement system or dropping out.

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

Mr. SOULAS: Mr. Speaker, Men and Women of the House: It has been stated in testimony today special plans for special classes of people.

I would like to pose a question through the Chair to anyone who cares to answer.

My question is, if this bill is enacted, how will this affect future legislators, who served their time in the legislature and also served on the city council?

The SPEAKER: The gentleman from Bangor, Mr. Soulas, posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, as far as I know, there will be no difference at all. If you serve in the legislature, you are permitted to belong to the retirement system and if you are fortunate or unfortunate enough to be elected five times and get five complete terms, then you would be eligible for the minimum 10 year retirement. Now, if you serve on a Bangor Council, and have paid for it, I would assume that would be added on in the years of service so that if you didn't serve the full five terms in the legislature but you did have enough time on the council to add up to ten years of service, you could very well get the \$100 minimum. But, there are some instances where this wouldn't apply and I am afraid I am not familiar enough to be able to go into details on it. But, I can answer Mr. Soulas question at a later time if he wishes to find out.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I know we are all aware and very upset with the present escalating retirement costs, but to me, I feel that these communities are passing the buck to us. All of them have arbitrated these various retirement benefits, and they have the alternative of sitting down at the arbitration table every three years and increasing them or lowering them. To me, it is hard to understand why they should pass this onto the legislature.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I am afraid this bill may wind up restricting collective bargaining rights in the future. Therefore, I do not feel it is the position of the state to move into this area and place restrictions on what the public employees may wish to bargain with the municipalities at the bargaining table. Let the municipal employees and the cities affected take their chances at the bargaining table and let them reach a conclusion. I urge defeat of this bill.

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

Mrs. NELSON: Mr. Speaker, men and Women of the House: Let me go over a few facts for you, please. I promise not to take too much time.

First of all, this bill came out of our committee bipartisan, unanimous "ought to pass." This bill does not affect the retirement benefits of any existing employee; it does not change the rules in the middle of the game for existing employees. I can't tell you how many bills have come before our committee with people pleading—please don't change it while we are

still in the system. This bill does not do that.

This bill does allow a municipality to establish retirement benefits for future employees that may differ from benefits for future employees that may differ from benefits of existing employees. Right now, the law says you can't do that, and such change would affect only those employees hired after the effective date of this bill. That is exactly what has been said.

This bill is necessary for those municipalities that presently offer retirement benefits they cannot afford and who wish to reduce costs in the case of future employees.

Now, a change of benefits is an issue which can be negotiated at the bargaining table. Presently, the issue of binding arbitration with respect to pensions and other items is the subject of several proposed bills. The issue of the union's rule should not be debated through this bill.

Just a point of information. You are right: this is a Portland bill and a Bangor bill and a Lewiston bill and a Biddeford bill. Portland alone, for every \$10,000 that it pays a policeman or a fireman for salary, an additional \$4,000 must be put aside annually for the cost of the pension plan. Ladies and gentlemen of the House, if I may use that phrase, this is a good bill, it is a needed, bill, we must have it, and I urge you when the vote is taken, vote against indefinite postponement of this bill.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: How wonderful it is to hear how desperate my city is.

I am not opposed to my city and the unions trying to do what they can to save the city dollars, but I resent it when my city comes here asking for exclusive rights, when management is the only one, and if this bill passes it makes them the only one, who will determine what is put on that bargaining table.

I prepared an amendment, and I asked the sponsor and some members of the committee said, "for goodness sake, at least let mutual agreement over what will be put on the table happen." We don't want your amendment, it is not needed, the representative from your city doesn't want it, we won't accept it. So I said, "okay, if you cannot at least allow some kind of mutual agreement, then forget it and I will do my job the best way I know how."

I represent the City of Portland and I do it very well when I feel that they want something that is proper and right, but when they are wrong, I will fight with every ounce of breath that I have got to defeat them.

I am very pleased to hear that this is not going to affect city councilors and what not. So in effect, then, is the committee saying this is the kind of bill that is going to do it to the firefighters and the cops? If that is going to be the case, if it doesn't bother any other employees, then I say they are trying to do something that is not proper and it makes, in my opinion, an anti-labor bill.

I have pointed out that the passage of this bill will negate another statute. It could have the effect of the current employees never being able to bargain for a better pension plan; yet, where in here does it say that those who are already in place are going to be grandfathered, and who is going to negotiate for the future employees? Naturally, it is going to be the current union representatives.

Now, I say that we are tampering with a very, very delicate situation that involves collective bargaining process, and I wish that I could today take this bill and ship it over to Parker Denaco for an evaluation.

Unfortunately, when the committee heard the bill and looked at it, they did not think of looking at the ramifications other than the goals and objectives that were being put before them. I say it has impact for what could potentially happen at the bargaining table. The mu-

nicipalities already have their rights, they can bargain in good faith at their tables. I say, let them deal with this—not here.

The SPEAKER: The Chair recognizes the Gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: I beg to disagree with the gentlelady from Portland, Mrs. Beaulieu. When I referred to the city councilors, I didn't say that they wouldn't be affected by this bill, because there is no one else going to be affected by it anyway, no one. No one in the system at this time will be affected. That is why I said they wouldn't be affected. Anyway, their system, I don't know what the council of Bangor or Portland does towards their retirement, I don't know if they are even in the retirement system, I don't know those things, so I can't answer. They keep saying that the municipalities and the unions can sit down and negotiate at the table. On retirement, there is only one way that the cities and towns can negotiate—giving them better benefits. The rules of the retirement system say that they can't negotiate downwards, they can't change the system, they can't give them any less—they can't negotiate downward. This bill would not make it possible for them to negotiate downward, it would just give them a chance to start with the new employees.

Members of the House, those of us who support this bill are being accused of being anti-labor. We are not! I am sure that if my past voting record in the eight years I have been in this House was examined, it would prove in truth that I am pro-labor, but for myself, if I am to be labeled as anti-labor, I want everyone to know that I feel my first responsibility is to my constituents, the people of Rumford, the taxpayers of Rumford, the homeowners of Rumford. I cannot stand by and see my town go bankrupt if I can do something about it. I may be a Maine State Representative, but I was sent here to represent my district and I am here to protect their interests first, last and always. At the moment, supporting this bill as it is without any amendment is my way of doing that.

Something that you may consider when you vote is that if this bill is thought of as an anti-labor bill, which I deny that it is, then you should remember, that does not necessarily mean that all rank and file members of the union will be against it. Their leadership and lobbyists, yes, but the membership, the little guy, the homeowner, the taxpayer, emphatically a big, fat 'No.' I believe if those people had a chance to vote on this bill, they would support it.

I am from a paper mill town, and I daresay 70 or 75 percent of my constituents are or were at one time union members. Still, I do not hesitate for one moment to support this bill. I am a retired police officer from the very department I seem to be attacking, but to the best of my knowledge, all members of both departments in my town are for this bill, so maybe if an amendment was put on, it wouldn't matter anyway.

I might say, incidentally, that when I was retired, I wasn't under the generous plan that the police now have. I can assure you that it was much less and that I was very happy with it when I got it and I still am.

The SPEAKER: The Chair recognizes the Gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: You probably read the reports or heard the reports this morning on the radio about our own retirement system here in the state and some of the problems we are having with it.

One thing that has happened over the years is that the private sector has become very critical of public sector pensions, public sector benefits. I am sure many people have criticized legislation we have passed at the national level when they talk about military pensions and pensions of civil service employees at the na-

tional level, the huge amounts of money the government pays these people when they leave service.

All of us in our campaigns and those of us who have watched people run for a political office have always heard people talking about cutting government spending. Well, it is pretty hard to cut government spending. I think this legislature has concluded already this morning in a debate that we don't want to take negative action on the benefits we have now on the people in the system, etc., so I think if we want to take a reasonable approach and a responsible approach for the future, it is with this bill.

I would suggest today that we follow the lead of Mr. Morton. Eventually, we have to do something about the burdensome liability of these kinds of programs on local government. I think this is one responsible way to do it. We are not cutting anybody out, we are not going to hurt anyone, but we are saying as far as the future is concerned, we want to allow for more flexibility at the local level.

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 Chair recognizes the Gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker and Members of the House: I appreciate the fine debate that has gone on this morning. I just want to clear a couple of points up.

First, the gentleman from Portland, Mr. Joyce, indicated that I got this out of Portland—frankly, I never heard of the city of Portland when this bill was suggested to me. I certainly applied it to my community first when I heard the bill and then I decided it would be good, and it certainly has been held up long enough through the process in the legislature for any kind of input, and it has been lobbied. I was lobbied the other night myself. A firefighter called me, and when I told him I was the sponsor of the bill, that really didn't seem to mean too much to him because he was a little unsophisticated, so he said he still wanted me to vote against it. I said, well do you understand what the bill does? Well, no, he really didn't understand that because he didn't know about it. He was in a small town fire department but he had got a call and that he was to call me and tell me I was to vote against it. Well, that is fair enough. That is part of the process; I understand it, I accept it, and I have no problems with it. But, it has had plenty of lobbying and I honestly didn't get it from the City of Portland.

In fact, when this bill was first presented to me in first draft, it had a provision that covered all employees, and I immediately saw that and refused to support the bill or put the bill in if it did not take care of all people who are presently in the system. To my knowledge, it does, it is the intent of the bill, it is only to be so that prospective employees may have a different plan if it is agreed upon, and that is where I would differ with the young gentleman from Portland, Mr. Baker, when he pointed out and said that it would be restrictive.

Actually, this opens up the collective bargaining process and allows them to talk about more than one plan. That is all it does and that is why it is here. It opens it up, it will not keep things off the table, it puts them on the table, despite what the gentlelady from Portland says. I know where she comes from and I know who her constituents are, and despite what she says, this opens up the process and allows more than one plan to be discussed on the table. As far as the whole thing is concerned, I think we need to open it up.

The City of Portland has been mentioned—

the \$4,000 out of every \$10,000. Let me tell you, ladies and gentlemen, there are plenty of other communities around the state that have real problems.

You have all heard of the little village of Garland, you know, that was made famous by the gentlewoman from Garland, Mrs. Adams. Well, the city or town of Garland, whatever it is, is paying out over \$3,000 a year with no employees on the payroll. All they are paying for are the people who have long gone from that payroll.

The Bingham Water District is paying \$829 a year, plus 38.8 percent of its present payroll to cover three retired members of the water district. The present member of the water district, I am told, makes between \$250 to \$300 a year, and this particular plan, for them, is locked in. Okay, so be it, we are not concerned about plans that are locked in. We are concerned with the future and we are concerned that we open up the collective bargaining process so that we can have more bargaining on different issues, and this is what this does. Presently you are not allowed to and this would open it up. It does not restrict; it makes it a better system.

I certainly hope you will support the bill.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Farmington was right—he is partly right. Usually, if you follow my light and his, it is pretty close. I don't know how you can light half a light up there, but he is only half right on this. This certainly will open up the bargaining process. It will open it up to fragment it. Yes, those figures he gave of the little towns, no employees paying into it, that isn't germane to this bill. This bill would never get at that.

In many of the departments, the fire departments and the police departments, there are the 25-year pensions as compared to the 35-year pensions in the same municipalities, and for the past few years, and you can check this out, municipalities have gone to the bargaining table. I know in Portland, it was dental insurance that was a big deal. They were going to trade a five-year increase in the overall pension for a dental insurance plan. From talking to the administrators, I was led to believe they were pretty close, but apparently something fell through. I am not too familiar and I am not going to talk about, you know, the molars and bicuspsids that probably split that thing but, anyway, they just couldn't make a deal that would keep people happy. So, they took the route to come up here, and it kind of disturbs me to know that the municipalities can sit down and bargain. They can say to the present employees there now, you are getting a 20-year retirement, we want to raise that to 28 years and we are going to pay all your Blue Cross. These are the things they bargain with.

Now, they come up here and they ask us to put that big cloud that contains all that weight over the head of the employees whether they be present or future. They are asking us to bargain for them and it bothered me in the morning when I used to come in this building and meet people, state employees, asking me to do for them. I told them, as legislators, we have to use the hands-off method when dealing with state employees. Now, we are being asked not to follow our golden rules of hands off but to go give all that weight and to shift it from one side of the bargaining table to the other. If they need changes in the participating district's plan, they should bargain them at their table; that is where it is. Open it up and bargain it there. Don't let them get their hands into that cookie jar.

If this bill were to be enacted, we would be one second away from including every single city or town employee. They probably already have the amendment written up for January. This bill deserves a proper burial today.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I have been sitting here trying to piece this altogether in my mind. I listened very intently to the gentleman from Farmington, Mr. Morton, who referred to the Bingham Water District as having just a few employees and they had been on a pension and they were having to pay for that. I am trying to figure this out in my mind. Does this bill address that type of a situation?

I understand that most of the debate is centered around fire and police. Mr. Morton indicated that they wanted to get this out on the table to negotiate, but isn't it true that in cases of water districts or city councils or organizations of that manner, that isn't negotiated, they simply vote themselves into the retirement system anyway.

In the City of Old Town, the city council is not in the retirement system, but as I understand it, they could simply vote themselves into the retirement system if they wished and there would be no negotiations about that.

I am kind of curious as to whether this really does apply to those small situations that may be costly in the long run, and I would pose that question to Mr. Morton to clear that up.

The SPEAKER: The gentleman from Old Town, Mr. Pearson, has posed a question through the Chair to the gentleman from Farmington, Mr. Morton, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The answer to that question is yes, it does address any size unit anywhere in the state and allows that unit to have more than one plan if it is desirable to have one. In those communities where it is a negotiable thing, it will be negotiated. In those communities where it is not negotiated because there isn't anybody to negotiate with, it will be the decision of the city council or the governing fathers or the legislature of the community, whether it is a town meeting or whatever.

Mrs. Nelson of Portland was granted permission to speak a third time.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I just want to go over some of these facts again. It is getting a little cloudy, a little muddy in here. If there is ever a hands-off bill, this is it. The local municipalities cannot deal with those members in the system and those members outside the system who are about to come into the system, they just want permission to do that. This is not a labor bill, this is a retirement bill. If it had been a labor bill, it would have gone to the Labor Committee.

These communities have come to us and said, please help us do those things that we want to do, that we do best. We want to negotiate now the way we have always been able to negotiate. This bill does not change any of the negotiating powers of either party. It merely says that you can handle those employees who are new in a different manner when it deals with pensions than those people already in the system. I have notes where people have asked me, if they are in the system now, will they be hurt by it? No, they will not. The key word in this bill is 'prospectively,' the new people coming in.

If there has ever been a local control issue, here it is. The local people want to be able to deal with it and we must let them deal with it. They have been able to negotiate in the past, obviously to the certain satisfaction of many of these people, because they have good retirement plans and they want to have the same fair negotiating powers in the future as they have now. There is no difference.

The local communities have come to the state for help because they can't do it alone, and this bill allows the local communities to

have the help they need.

This is not dealing with a labor problem at this moment. If there are labor problems, let it be dealt with in the Labor Committee with the bills they are about to hear this week and next.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Paul.

Mr. PAUL: Mr. Speaker, I would like to pair my vote with the gentleman from Portland, Mr. Brannigan. If Mr. Brannigan were here, he would be voting no and I would be voting yes.

The SPEAKER: The pending question before the House is on passage to be enacted, a roll call having been ordered. Those in favor of enactment of L. D. 470 will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Barry, Benoit, Berry, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brodeur, Brown, A.; Brown, D.; Brown, K. L.; Bunker, Carrier, Carroll, Carter, F.; Chonko, Churchill, Conary, Cox, Cunningham, Curtis, Davis, Dexter, Doukas, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Higgins, Howe, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Kany, Kelleher, Kisman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Masterman, Masterton, Matthews, Maxwell, McKean, McMahon, McPherson, Morton, Nelson, A.; Nelson, M.; Norris, Payne, Peterson, Post, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprawl, Stetson, Stover, Studley, Theriault, Torrey, Tozier, Twitchell, Vose, Wentworth, Whitemore

NAY — Bachrach, Baker, Beaulieu, Berube, Brenerman, Brown, K. C.; Call, Carter, D.; Cloutier, Connolly, Davies, Diamond, Dow, Dutremble, D.; Fowlie, Hickey, Hobbins, Jacques, E.; Joyce, Kane, Laffin, Locke, Martin, A.; McHenry, McSweeney, Michael, Mitchell, Nadeau, Nelson, N.; Paradis, Pearson, Reeves, P.; Rolde, Simon, Soulas, Tierney, Tuttle, Vincent, Violette, Wood, Wyman, The Speaker

ABSENT — Damren, Dellert, Elias, Gillis, Hughes, Jalbert, LaPlante, Lizotte, Peltier, Strout, Tarbell

PAIRED — Brannigan; Paul

Yes, 95; No, 42; Absent, 12; Paired, 2.

The SPEAKER: Ninety-five having voted in the affirmative and forty-two in the negative, with twelve being absent and two paired, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate
The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action whereby this Bill was passed to be enacted and hope you all vote against me.

A viva voce vote being taken, the motion did not prevail.

Orders of the Day

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

RESOLVE, Authorizing an Appropriation of \$300,000 to Provide Administrative and Other Initial Operating Expenses Incidental to the Construction and Operation of the Maine Veterans Home (Emergency) (H. P. 1014) (L. D. 1248) — In the House, Referred to Committee on Aging, Retirement and Veterans on March 16, 1979 — In Senate, Referred to Committee on Appropriations and Financial Affairs on March 22, 1979.

Tabled — March 23, 1979 by Mr. Theriault of Rumford.

Pending — Further Consideration.

On the motion of Mr. Theriault of Rumford, the House voted to recede and concur.

The Chair laid before the House the second

tabled and today assigned matter:

HOUSE DIVIDED REPORT — Report "A" (5) "Ought to Pass" Report "B" (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-121 Report "C") (1) "Ought Not to Pass" — Committee on judiciary on Bill "An Act to Permit Signed Statements of Psychologists and Chiropractors to be Admitted into Evidence before the Workers' Compensation Board" (H. P. 377) (L. D. 540)

Tabled — March 23, 1979 by Mr. Hobbins of Saco.

Pending — Acceptance of any Report.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I move acceptance of Report A, the "Ought to Pass" Report.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: First I must apologize for getting up again. I will try to keep this one short.

I rise to oppose the motion by the gentleman from Saco, Representative Hobbins. This particular bill has to do with hearings before the Workmen's Compensation Committee. The motion made by the gentleman from Saco would permit signed statements to be submitted to the commissioner, who will be conducting a hearing. It will extend this privilege of sending statements while I stay at home to the chiropractor and to the psychologists.

I have no problem with the bill the way it stands now. It permits medical doctors and osteopaths to put into writing and submit to the commissioner, for his hearing, their reports. They are the only two presently offered this procedure. I have no objections to the chiropractor, and if you noticed on your calendar, House Amendment "A" would eliminate the psychologists from this particular bill. If we eliminate the psychologists, I feel we are doing a service.

I have some real problems when I think of what we would let our hearing examiner get into on this particular bill. Many of you are familiar, or from your school days you recall those wonderful inkblot tests, the Rorschach test, where the blot of ink is viewed by the client and he says, I see a black bird, it looks like a sparrow. Well, picture this on a report going to the hearing examiner if psychologists were admitted into this privileged group. A report might read, I administered a series of Rorschach tests where nine out of ten people, the record shows, usually point to the blot as an eagle or a black crow. Now, I have here this gentleman that I examined from Frenchville, Maine. Every time he looks at the blots, he says, "it is a moose," and I am troubled. How about the report coming from the psychologist who tells us, I have tested James O. Flanagan from Portland. I gave him the test on the finger painting. I have a problem reading the test. James O. Flanagan will only use green paint. Why doesn't he use yellow to show that he is a happy man?

Then they could go on, you know, with the Lombroso Test. I measured his head and the shape of his head and I am having problems with some of them. This is the type of thing that bothers me. It bothered me, too, in the Judiciary Committee when my good friend, I think a good friend of all, Representative Hobbins presented his bill. I could tell that he was speaking as a Freudian when he spoke of the unconscious mind. I said to him, "I couldn't agree with you on this bill because I am an Adlerian."

I think this bill creates a lot of problems. If we are going to accept this bill as written now, I think we should go back and amend it because it should cost us a little money. If we are going to take all these reports and writing instead of having the doctor there to submit to the questions, I think you should have a computer there

so that you could throw all these reports into the computer. You don't need a hearing examiner.

Yes, I have problems with this bill. When they get into mental testing, I don't feel the psychologists could draw a chart of the brain and point out where the problem exists on a chart. I just feel we are going one step too far. We don't let dentists enter dental charts to these hearings. A lot of other people must stand there and give open testimony. This really is the best evidence. I urge you today to vote against the motion that is before us so that we can get to the next section of the bill that will accept chiropractors and eliminate the psychologists.

Now, as it came out of the committee, the motion before us now does not have the reputation of being the majority report. It only got five votes on the fourth floor, while the amendment that I will propose also got five votes. So, I urge you to defeat the motion before us and then we will move on.

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

Mr. HOBBS: Mr. Speaker and Members of the House: The good gentleman from Portland, Mr. Joyce, mentioned the committee report. I think it would probably be more appropriate, taking his analogy, that five members of the Committee on Judiciary are Adlerians and five members are Freudians. I understand that two other individuals on this report, because they had a leave of absence from the legislature, would join the Freudians and join the majority report with me. So, I suppose the final box score would be seven Freudians, five Adlerians and one — —

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce, and inquires what the point of order is?

Mr. JOYCE: Mr. Speaker: I think for a gentleman to stand in this House and add on votes of a committee that have in no way voted on this bill, I feel that in our rules, which the good Speaker I consider the authority on, would not permit committee members to count absentee votes on any bill, and I would like the Chair to rule on that, please.

The SPEAKER: The Chair would advise the gentleman that that is not a point of order. The question before us is the debate of the merits of the bill. The gentleman from Saco, Mr. Hobbins, may presume as to what way the two members would vote. Of course, if they deny that, those members may get up and deny that when they are debating the bill. However, the matter is not something the chair can rule upon and is not a point of order.

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

Mr. HOBBS: Mr. Speaker and Members of the House: I hope in any way I am not trying to add on votes of a formal report. I was told by those individuals that they had the same sentiment as my position on this bill and not the position of the other five individuals. In no way am I trying to change a formal vote.

Mr. Speaker and members of the House, I suppose I have to be serious now. I tried to lighten the spirit a little after a long morning of debate.

This bill will basically do a couple of things. It will permit signed statements of a psychologist relating to psychological questions or a chiropractor relating to chiropractic questions to be introduced into evidence before the Workers' Compensation Commission pursuant to Title 39 of our Statutes.

The State of Maine licenses psychologists and they also license chiropractors, and they are considered by the State of Maine and recognized as legitimate members of a health profession. Presently, under Title 39 of the Workers' Compensation Statute, chiropractors and psychologists are allowed to orally testify and present statements orally before the Workers' Compensation Commission. M.D.s and

O.D.s have a little different quirk in the law; they are allowed to present written statements along with testifying before the Workers' Compensation Commission.

There has been a lot of talk here about different Rorschach tests and whatever and evidentiary problems because of written statements that are made. I should make it clear and read to you a part of the statute which is identical to what exists now for medical doctors or osteopathic doctors regarding oral statements.

Before a written statement can be introduced into evidence, the other side must consent to it. Okay? What that means is that a council on the opposing side, either the employer or the employee's council, can object to a written statement and would require that that doctor, M.D., O.C., and hopefully a chiropractor or a psychologist would have to be present and be deposed either through depositions or be present for cross-examination at the worker's compensation hearing. So, we are not talking about just throwing in a written statement to be admitted into evidence when there is evidentiary problems. We are talking of a situation where opposing council may oppose allowing that statement to be entered into evidence and that individual whether it be a doctor presently under the law or an osteopathic M.D. or O.D. they are presently required, if objected to by opposing council, to testify orally and not through written statements.

I think what a lot of individuals are doing here is arguing the merits of what a chiropractor or what a psychologist can do as far as health-related issues. That issue has already been decided. Presently under the law, a chiropractor and a psychologist can testify and their testimony is admitted into evidence if it is relevant to the issue before the Workers' Compensation Commission. We have already recognized chiropractors, we have already recognized psychologists in those areas and problems which relate to those particular professions.

This bill does nothing more than allow a written statement to be issued by a chiropractor and a psychologist, the same as an M.D. or an O.D. It doesn't prohibit opposing council from making that individual be present to be cross-examined.

I hope that all of us will separate our emotional feelings about what chiropractors are and what psychologists are and just address the simple issue—should a written statement be allowed? That is all the issue is. Please separate the emotional issue about chiropractors and psychologists versus psychiatrists and M.D.'s and O.D.'s because that is not the issue. Presently, they are recognized as legitimate providers of health care by the Worker's Compensation Commission of the State of Maine.

Mr. Speaker, I would request a division.

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

Mr. LAFFIN: Mr. Speaker, Ladies and gentlemen of the House: Now that the people have finished talking on this bill with all of the high muckamuck language, I would like to tell you just what the bill is from a layman's viewpoint. All it does is separate the head shrinkers from the chiropractors, that is all it does.

The committee, as a whole, is in favor of this bill. I, personally, don't believe in these people, but if they want to believe in them, fine and good. I am not going on my own personal beliefs today, I am going for what is best for the worker, and that is what it is. There is nothing anything different in the bill than that. The group that signed it believe that both should be in there. The other group that my good friend from Portland spoke on, and I didn't understand what he was talking about, but what he spoke on was that it took out the head shrinkers, that is all there is to it. It is just as simple as that. We all agree on the bill. It is who is going to testify in writing, and that is all it is.

The SPEAKER: The Chair will order a vote.

the pending question before the House is on the motion of the gentleman from Saco, Mr. Hobbins, that the House accept the Report "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

61 having voted in the affirmative and 27 in the negative, the motion did prevail.

The Bill read once and assigned for second reading tomorrow

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

Bill, "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 223) (L. D. 271)

Tabled — March 23, 1979 by Mr. Carter of Winslow.

Pending — Passage to be Engrossed.

On motion of Mr. Davies of Orono, retabled pending passage to be engrossed and tomorrow assigned.

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

Bill, "An Act Appropriating \$500,000 for the Improvement and Construction of District Court Facilities" (H. P. 1189) (Committee on Judiciary suggested)

Tabled — March 26, 1979 by Mr. Pearson of Old Town.

Pending — Reference.

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

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

Bill, "An Act to Increase Penalties for Violation of the Statutes Concerning Minimum Wages" (S. P. 82) (L. D. 155) — In House, Passed to be Enacted on March 13, 1979. — In Senate, Failed of Passage to be Enacted on March 21, 1979.

Tabled — March 26, 1979 by Mrs. Mitchell of Vassalboro.

Pending — Further Consideration.

On motion of Mr. Wyman of Pittsfield, the House voted to recede.

The same gentleman offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-126) was read by the Clerk.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: This particular House Amendment "A" will alter the penalties which were in the bill. Instead of a minimum of \$300, the amendment will provide for a minimum of \$100 and a maximum of \$1,000. The intent of this amendment, I think, ought to be obvious. It is to give the judge a greater latitude in determining the severity of the crime and to adjudge the penalties accordingly.

I hope that you will accept House Amendment "A".

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

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

COMMUNICATION (H. P. 113) From Rodney S. Quinn, Secretary of State Relative to initiative petitions relating to "An Act to Repeal the Forced Deposit Law" — In House, House reconsidered placing Communication on file on March 22, 1979.

Tabled — March 26, 1979 by Mrs. Mitchell of Vassalboro.

Pending — Placing on File.

On motion of Mr. Tierney of Lisbon Falls, tabled pending placing on file and tomorrow assigned.

The Chair laid before the House the seventh

tabled and today assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine Allowing the Legislature to Impose a Property Tax in Excess of the Cost of Services upon Properties in the Unorganized Territories (H. P. 1040) (L. D. 1283) — In House, Referred to the Committee on Taxation on March 16, 1979. — In Senate, Referred to Committee on State Government on March 23, 1979.

Tabled — March 26, 1979 by Mrs. Post of Owl's Head.

Pending — Further Consideration.

On motion of Mr. Tierney of Lisbon Falls, the House voted to adhere. (Later Reconsidered)

The Chair laid before the House the following matter:

Bill "An Act to Adjust the Penalty Assessed Against Small Employers under the Employment Security Law" (H. P. 310) (L. D. 400) which was tabled earlier in the day and later today assigned pending acceptance of either Report.

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

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

Mr. Speaker, Ladies and Gentlemen of the House: L. D. 400, which was sponsored by the gentleman from Woolwich, Mr. Leonard, will have the effect of lowering the penalties which are enforced against employers who are delinquent in paying their quarterly unemployment compensation taxes.

The present law provides for a penalty of 5 percent of the contributions which are owed by that particular employer. The bill would lower that from 5 percent to 2 percent. The Labor Committee, after the hearing on the bill and during a work session, decided to amend that bill slightly to provide for a 2 percent penalty only for the first 30 days. In other words, if an employer has been delinquent in paying his quarterly unemployment taxes, then, for the first 30 days, the penalty will be 2 percent of the taxes that are owed by that employer. If he has not paid his taxes within that 30-day period, in other words, his delinquency extends beyond the 30-day period, then the penalty would be 5 percent, which is in the current law, and it would be 5 percent thereafter.

So, I hope that you will support the Majority "Ought to Pass" report as amended by the committee.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Pittsfield, Mr. Wyman.

We just went through a town meeting in my community dealing with tax anticipation notes and making sure that the interest rates on delinquent property tax payments are high enough so that big employers in our community, the big factories, don't hold up their property tax payments because, in other words, they can get like a low interest loan from the community, and we made sure our penalty rates were high enough. What incentives do employers have to pay on time if they basically get a 2 percent loan from the unemployment fund? Is that what this bill does?

The SPEAKER: The gentleman from Lisbon Falls, Mr. Tierney, has posed a question through the Chair to the gentleman from Pittsfield, Mr. Wyman, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to that question, I am not sure what motivations would be behind a particular employer not paying his taxes. I think the intent of the legislation, however, was to permit small employers, who may have just neglected to, not being aware of the deadline, pay their taxes, this gives them a

grace period of 30 days. At that time, the penalty would only be 2 percent.

However, in direct response to the gentleman's question, I think perhaps there would be those cases where an employer would feel that it would be more of an advantage not to pay the first 30 days. However, this would probably be larger employers, who would draw more money from investing that in a bank somewhere than paying it.

Our concern is with the small businessman, and I think this is fair to the small business person.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: In response to Mr. Tierney, I would point out that 2 percent a month is 24 percent a year and that is substantially higher than the going interest rate.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I signed the "Ought Not to Pass" Report because the state is now \$36 million in debt to the federal government. We have delinquents of \$1 million and small business makes up a good part of it. I don't think you want to reward the people that don't want to pay their share into the unemployment fund by cutting the interest rate of 5 percent to 2 percent.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I would like to respond or at least go back to the gentleman from Bangor, Mr. Carter and ask him where here he says this is 2 percent per month. It is my understanding it is 2 percent a quarter. Maybe he knows the unemployment law a little bit better and he can help us with that.

The SPEAKER: The gentleman from Lisbon Falls, Mr. Tierney, posed a question through the Chair to the gentleman from Bangor, Mr. Carter, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: If I understand the bill correctly, it says that, if the payment is delinquent, that is over the due date and for the first 30 days of the delinquency of the amount overdue, it is subject to a 3 percent penalty. So, that would be 2 percent for the first month. Then, if it is two months over, there would be 5 percent for the next month and 5 percent for each month thereafter. So, for that first month, it is true that the tax that is due quarterly and if it is paid within the due date there is no penalty. If it is not paid within 30 days, there is a 2 percent penalty, which is 24 percent a year.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: There is also a maximum of \$100. So, no way is it 12 percent or 24 or what have you.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill and one thing that is being overlooked here is that the state is now empowered to charge an interest rate in addition to the penalties and, keep that in mind, that they are allowed right now. I don't have the figures in front of me but, as I recall, it is 1 percent per month interest rate on any outstanding or delinquent account. The thrust of this legislation originally was that we had two problems, one, I felt that 5 percent, as exists in the statutes presently, was an excessive amount. That is an excessive fine, when you take into consideration each employer pays a \$10 late filing fee for the form and he pays 1 percent per month interest in addition to that 5 percent. That I felt was wrong.

The other part of the existing statutes I felt was wrong, we have presently, under this Com-

mittee Amendment, minimums and maximums in the fine. Probably some people would shoot me for saying this but I really think that minimum and maximum fines, number one, they pretty much hammer at the guy right in the middle and the guy in the middle in this case is the small businessman.

For example, I will point out, that a large company that employs several thousands of people, if, in the event they were late on their payment, they would pay a penalty of 5 percent not to exceed \$100, plus 1 percent per month interest on the outstanding balance. A small employer, who might only have three or four people, would pay 5 percent penalty not to exceed \$100 and 1 percent per month.

The only difference between the two employers is the 1 percent per month on the outstanding balance, that you are fining the large company no more than you are the small company. That I feel is discriminatory, and that was the thrust of the legislation originally, to lower the fine to 2 percent across the board, not under a 30 day restriction, but just a 2 percent penalty. I personally, wouldn't even mind the interest rate climbing but let the interest rate be the lack of incentive for these employers to divert the funds to some other source. The thrust being to treat all employers equal with no minimums, no maximums.

If somebody commits a major crime—a major crime being in terms of the financial remunerations to the state, then they would pay a maximum fine. If they create a minimum of violation, which very often happens on the small business side, then they would pay a minimum fine.

The Committee Amendment is not necessarily what I ultimately would like to have but I am willing to live with that because I think, at least, it treats one very important problem and that is the unknowing businessman who doesn't file his form on time. The state has time to get back to him within 30 days to say, you didn't file it, why haven't you? He isn't levied a terribly excessive fine as a result. He is levied a 2 percent fine in lieu of the 5 percent, which is now on the books. So, at least the bill does part of what I wanted to do, at least the Committee Amendment does. I hope you can live with that.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly because it is late.

I do applaud the efforts of the committee and Mr. Wyman because this is certainly an endangered species bill. The small businessman in this state, and across this country is an endangered species. Any time that this legislature can give them a little break in the peripheral of regulations and laws, we all should put our shoulders to the wheel and vote with the chairman of the committee this morning.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to make sure that we understand the reason for the amendment. With the 5 percent, as was in the bill originally, that would have the effect of assessing a greater penalty for larger businesses proportionately because their taxes would be a larger amount. So, 5 percent of the larger employers contribution would be a much heavier fine than the 5 percent of a smaller employers contribution. I think that needed to be pointed out just for your information. Also, I would point out to you that, under the original bill, we would have experienced a substantial loss to the employment compensation fund at a time when we are, as the gentleman from Madawaska pointed out, in debt for a considerable amount. So, this is the reason the committee decided to mitigate this bill and amend it just a little bit.

I do want to also concur wholeheartedly with the gentleman from Brewer, Mr. Norris, I

think that this is a small employers bill and I hope that you will support it for that reason.

The SPEAKER: The pending question is on the motion of the gentleman from Pittsfield, Mr. Wyman, that the House accept the Majority "Ought to Pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

107 having voted in the affirmative and 3 in the negative, the motion did prevail.

The Bill was read once. Committee Amendment "A" (H-127) was read by the Clerk and adopted and the bill assigned for second reading tomorrow.

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss Brown: Mr. Speaker: I would like to move reconsideration whereby we adhered on L. D. 1283.

The SPEAKER: The gentlewoman from Bethel, Miss Brown moves that the House reconsider our action of earlier today whereby the House voted to adhere on "Resolution, Proposing an Amendment to the Constitution of Maine Allowing the Legislature to Impose a Property Tax in Excess of the Cost of Services upon Properties in the Unorganized Territories." (House Paper 1040) (L. D. 1283)

The Chair recognizes the same gentlewoman.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: This legislation would impose a property tax in excess of costs of services upon properties in our unorganized territories. This is a Constitutional Amendment and I feel very strongly that it should be in front of State Government instead of Taxation. I hope that you will vote with me on this, then I will move to recede and concur.

Mr. Davies of Orono requested a division of the motion to reconsider.

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

Mrs. KANY: Mr. Speaker and Members of the House: As the House Chairman of the State Government Committee, I probably would have agreed with the Representative from Bethel area early on in the session, but the legislative council at that time, made a decision that all of the Constitutional Amendments would not be going to the State Government Committee. I was unhappy about that at the time but that decision was made and to be consistent. I suppose that we should let this particular measure go to the Taxation Committee. So, I will abide by that adhere motion and I hope that we do not reconsider our action.

The SPEAKER: A vote has been requested. The pending question is on the motion of the gentlewoman from Bethel, Miss Brown, that the House reconsider its action whereby earlier in the day we voted to adhere. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

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

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 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 Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: This particular bill or this particular issue is one that has been before the legislature several times. It was, in fact, in the last session, and it went to State Government, it was reported out, and then because it was a very complicated tax issue and because we get

involved with tree growth, which Taxation is also considering, it was then recommitted during the interim between the two legislative sessions to the Taxation Committee. The Taxation committee has spent a great deal of time considering this issue. It, in fact, came out with an alternative to this particular bill at one time, which was the Unorganized Territory Tax District, which is now in effect.

It is simply a tax issue. It relates to many of the other issues, particularly tree growth and state valuation which we are now presently considering, and those bills are in Taxation and appropriately belong in Taxation, so I would simply ask you to oppose the motion to reconsider.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Bethel, Miss Brown, that the House reconsider its action whereby it voted to adhere. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Barry, Berube, Birt, Bordeaux, Brodreau, Bowden, Brown, D.; Brown, K. L.; Bunker, Call, Carrier, Conary, Cunningham, Davis, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gould, Gray, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Kiesman, Laffin, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Masterman, Matthews, McPherson, Morton, Nelson, A.; Norris, Payne, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Soulas, Stetson, Stover, Studley, Torrey, Wentworth, Whittemore

NAY — Bachrach, Baker, Benoit, Blodgett, Brenerman, Brodeur, Brown, A.; Brown, K.C.; Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Dow, Dutremble, D.; Dutremble, L.; Fowlie, Gowen, Gwadosky, Hickey, Hobbins, Howe, Joyce, Kane, Kany, Kelleher, Lizotte, Locke, MacEachern, Marshall, Martin, A.; Masterton, Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Reeves, P.; Rolde, Simon, Sprowl, Theriault, Tierney, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Wyman

ABSENT — Beaulieu, Berry, Brannigan, Carroll, Damren, Dellert, Doukas, Elias, Gillis, Hall, Hughes, Jalbert, LaPlante, Mahany, McMahon, Peltier, Prescott, Strout, Tarbell.

Yes, 67; No, 64; Absent, 19.

The SPEAKER: Sixty-seven having voted in the affirmative and sixty-four in the negative, with nineteen being absent, the motion does prevail.

Mrs. Post of Owl's Head moved that the House insist.

Whereupon, Miss Brown of Bethel moved that the House recede and concur.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I guess I am a bit concerned about the gentlelady's concern with this bill going to State Government. This legislature has already made the decision earlier that major issues like this would go to the substantive committees, and those are the committees that have been dealing with those particular issues.

Taxation has been and will continue to deal with taxation both inside and outside the unorganized territories for this whole legislative session. It does not make sense to me to have Taxation deal only with that issue when it includes changes in the statutes and yet say that some other committee should deal with that particular issue when we are talking about doing a constitutional amendment. If we are going to do this, then perhaps we should have started referring all the other constitutional amendments to State Government. That deci-

sion was made earlier that we should not do that. There is absolutely no reason why this particular issue, which was originally sent to State Government two years ago and the State Government Committee was not able to deal with it sufficiently because it was a tax issue and then was later referred to the Taxation Committee, while we have several members that have already dealt with this issue, why should it go to State Government. I would simply ask what the gentlelady's concerns are?

The SPEAKER: The pending question is on the motion of the gentlewoman from Bethel, Miss Brown, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

63 having voted in the affirmative and 70 having voted in the negative, the motion did not prevail.

Thereupon, Mrs. Post of Owl's Head withdrew her motion to insist.

On motion of Mr. Tierney of Lisbon Falls, the House voted to adhere.

On motion of Mrs. Kany of Waterville, the House reconsidered its action of yesterday whereby Resolve, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1979, Emergency, House Paper 1008, L. D. 1170, failed of final passage.

On motion of Mr. Gray of Rockland, tabled pending final passage and specially assigned for Thursday, March 29.

(Off Record Remarks)

On motion of Mr. Baker of Portland, adjourned until nine-thirty tomorrow morning.