

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

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

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

HOUSE

Wednesday, February 6, 1980

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

Prayer by the Reverend Herbert Pierce of the Full Gospel Church, Vassalboro.

Rev. PIERCE: Our heavenly Father, we come before thee this day through thy Son, Jesus Christ, Our Lord. We would praise thee and thank thee for the many blessings which thou has so freely bestowed upon us. We pray for this legislative body, each man and each woman. We remember in thy word, and there were giants in the land in those days, make them giants, O Lord, giants in their ability to know, to understand and to have the right answers to problems which they shall face as a legislative body. May those high ideals and motives which guided our forefathers be reflected in the legislation which they shall bring into being. Let them be of such a high character that the states in our nation shall say, "This shall be our standard; this we shall follow." For we have heard it said, O Lord, as Maine goes, so goes the nation.

Hear us this day as we call upon thee, Lord, not that man might be glorified but that we may glorify thee as we both see and hear the tangible evidence of answered prayer, and with grateful hearts, this we pray in the name of the Father and of the Son and of the Holy Spirit. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

Bill "An Act to Provide Low-interest Loans for Middle and Low Income Families for Residential Energy Conservation Improvements" (S. P. 743) (L. D. 1922)

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

In the House, on motion of Mr. Blodgett of Waldoboro, referred to the Committee on State Government in non-concurrence and sent up for concurrence.

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

James L. Richards, Jr. of Belfast, Waldo County YMCA Executive Director who was selected from Y-people around the world to work at the Lake Placid Winter Olympics (S. P. 744) Came from the Senate read and passed.

In the House, was read and passed in concurrence.

Reports of Committees
Leave to Withdraw

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Relating to the Facilitation of the Collection of Child Support by Exempting Financial Records from Confidentiality Pursuant to the Law of Financial Institutions" (S. P. 713) (L. D. 1851)

Came from the Senate with the Report read and accepted.

In the House, was read and accepted in concurrence.

Non-Concurrent Matter

Bill "An Act to Provide for Per Diem Compensation for Active Retired Judges" (Emergency) (H. P. 1636) (L. D. 1745) which was passed to be engrossed in the House on January 25, 1980.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-407) in non-concurrence.

In the House:

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

Mr. HOBBS: Mr. Speaker, I move that we

recede and concur.

Whereupon, Mr. Wyman of Pittsfield requested a division.

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Saco, Mr. Hobbins, 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.

Whereupon, Mr. Marshall of Millinocket requested a roll call vote.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. 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 pro tem: The Chair recognizes the gentleman from Millinocket, Mr. Marshall.

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for jumping up so quickly, but before we railroad this through, I would ask the Chairman of the Judiciary Committee to explain what this Senate Amendment is. I have been unable to locate it.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I would ask you to go to Senate Amendment under filing number 407. Maybe the good gentleman from Millinocket can also look at that amendment. What that amendment does is concede the argument of the good gentleman from Thomaston, Mr. Gray. It reduces the amount of money which would go for per diem payment to a judge from \$75 a day to \$50 a day. It also decreases the amount of money for a half day's work from \$40 to \$30 a day. This amendment also strips out the emergency clause. It is a very straightforward amendment. The other body has passed it and I hope today we will recede and concur.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I just want to give a little explanation as to what is happening here in case you have any doubts.

The fact is, ladies and gentlemen, what this amendment does, it gives them \$50 a day. Before my objection wasn't so much to the money part of it, it was the procedure used to get to the position that we are in right now.

Actually, the position that I wanted to debate, and I was well aware of what the answer was, why I asked the question was simply to make a point. It doesn't matter if you recede and concur. If you do this, you are naturally accepting the amendment which I don't believe is any good. If you only adhere, you are still accepting your same position.

I am not in favor of the bill for many reasons, and one reason is that this bill, in the first place, is not an emergency. I want you to look very carefully at the amendment—whereby this body has made the rule that we are to consider only emergency legislation, this particular amendment, although it says they will get paid, they will not get paid this year.

If you want to set precedents, which we have already allowing in all these bills which are not supposed to be in here in the first place, this is another very distasteful precedent which you are going to establish by making it take effect sometime in the following year.

I don't believe that this bill has any value. I was going to let it go through and I will let it go through, but my objections, my great and lengthy objections, will be presented the next time it comes around for enactment. I believe that we are getting away from the procedures that we voted for ourselves in the legislature as

to what kind of bills we were going to allow in here, and I am very concerned and very peeved at the fact that a lot of these bills that were rejected by the Legislative Council, they turn around and give it to the Governor and he shoves it in for the legislature to consider. I think it is very distasteful and a bad position to take. I don't like it.

The value of this bill amounts to nothing, because the fact is, ladies and gentlemen, these same people came in last year so they could be active retired judges, and they, themselves, said they didn't want the money. There are people in this House who say they can't afford to be here but they are here because of dedication and I think this is great, but if they can't afford it and they don't have the dedication, we should not be in here.

I submit to you, you can do what you want with it this morning, but we had better get ready for the next time it comes around.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Wood.

Mr. WOOD: Mr. Speaker, I have a question on this. When we heard the debate the other day, the argument for this bill, the only argument that was made was that there was an emergency in the court system and there were all these delays and we had to have these people immediately so that we could speed up the process, and if we remove the emergency preamble, what is the justification for the bill?

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: As many of you know, there is what you call reality, and the reality is that even though we have a dire emergency in our court system, it appears that the wisdom of this body and the other body would not warrant the votes to pass this with an emergency preamble.

There is an emergency in our court system. You might not want to realize it, but you might want to go down to the courts or go talk to a judge or go talk to a district attorney or go talk to a law enforcement officer and you will find that there is an emergency in the court system, there is a lack of judges and a lack of the process of working because of the slowness of the process.

The reason this bill comes back to us from the other body in the manner it does is because of the fact that it did not receive the unanimous backing of this body.

I objected when the co-chairman of my committee told me that he would amend this bill in the fashion that it is before us today. However, the reality of the situation is, and even though I didn't want to concede and of the principles behind this bill, I know, after talking to several of the active retired judges, there are two out of the seven who are active retired judges took the time on their own to come before the Judiciary Committee to explain the situation to us. After talking with these individuals and after I talked with several people in the court system, I reluctantly told my co-chair that I would, in fact, support a watered down version of the original bill.

There is an emergency in the court system. You might not believe it, but I think if you all went and talked to someone involved in the court system, you will find one.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on the motion of the gentleman from Saco, Mr. Hobbins, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Bachrach, Beaulieu, Berube, Bordeaux, Boudreau, Bowden, Brennerman, Brodeur, Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carroll, Carter, F.; Chonko, Cloutier, Conary, Cox, Cunningham, Curtis, Damren, Davies, Dellert, Doukas, Dow, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Fowlie, Gavett, Gillis,

Gowen, Gray, Gwadosky, Hanson, Hickey, Higgins, Hobbins, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Jalbert, Kane, Kany, Kelleher, Kiesman, Lancaster, Leighton, Lewis, Lizotte, Lougee, Lund, MacBride, MacEachern, Mahany, Marshall, Masterman, Masterton, Matthews, Maxwell, McKean, McPherson, McSweeney, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, N.; Norris, Paradis, E.; Paul, Payne, Peltier, Peterson, Post, Reeves, J.; Rolde, Sewall, Sherburne, Silsby, Simon, Small, Smith, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Tierney, Torrey, Tuttle, Twitchell, Vose, Wentworth, Whittemore.

NAY — Austin, Baker, Barry, Benoit, Berry, Brown, A.; Carrier, Carter, D.; Connolly, Davis, Dexter, Diamond, Dumble, D.; Hall, LaPlante, Lowe, McHenry, Paradis, P.; Pearson, Reeves, P.; Rollins, Tozier, Vincent, Wood, Wyman.

ABSENT — Birt, Blodgett, Brannigan, Churchill, Elias, Garsoe, Howe, Hughes, Jacques, E.; Joyce, Laffin, Leonard, Locke, Martin, A.; McMahon, Michael, Nelson, M.; Prescott, Roope, Soulas, Violette, The Speaker.

Yes, 104; No, 25; Absent, 22.

The SPEAKER pro tem: One hundred four having voted in the affirmative and twenty-five in the negative, with twenty-two being absent, the motion does prevail.

Petitions, Bills and Resolves Requiring Reference

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

Education

Bill "An Act Relating to Transfer of Pupils from One Administrative Unit to Another" (H. P. 1802) (Presented by Mr. Torrey of Poland) (Was approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.

(Ordered Printed)

Sent up for concurrence.

Orders

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

(H. P. 1803) Mr. and Mrs. Ernest Boutin of Old Orchard who will celebrate their 50th wedding anniversary on February 10, 1980;

Presented by Mr. McSweeney of Old Orchard Beach.

(H. P. 1804) Steven Pelletier, son of Raymond and Gerry Pelletier of Sanford, the winner in the 12-13 age category of the 8th Annual Elk's Hoop Shoot Contest;

Presented by Mr. Tuttle of Sanford.

(H. P. 1805) Kim Perry, of Addison, a bronze medal winner in the statewide gymnastic competition held at Bangor;

Presented by Mrs. Curtis of Milbridge. (Cosponsor: Senator Silverman of Washington)

(H. P. 1806) Tammy Emerson, of Addison, a silver medal winner in the statewide gymnastic competition held at Bangor;

Presented by Mrs. Curtis of Milbridge. (Cosponsor: Senator Silverman of Washington)

Were read and passed and sent up for concurrence.

(H. P. 1807) The Hon. Luman P. Mahany of Easton, who celebrated on January 30, 1980 the Seventy-Ninth anniversary of his birth;

Presented by Mr. Peterson of Caribou. (Cosponsors: Mr. Martin of Eagle Lake, Mr. Roope of Presque Isle and Mr. McHenry of Madawaska)

The Order was read. (Prolonged applause, the members rising).

The SPEAKER pro tem: The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker and Members of the House: I thank the good gentleman from Aroostook County and the other members of the House for all the good wishes.

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

The following Joint Resolution in Memory of:

Carl Moskowitz of Presque Isle (H. P. 1808) Presented by Mrs. MacBride of Presque Isle. (Cosponsors: Mr. Roope of Presque Isle and Senator McBreairey of Aroostook)

Was read and adopted and sent up for concurrence.

House Reports of Committees Leave to Withdraw

Mr. Torrey from the Committee on Agriculture on Bill "An Act Concerning Harness Racing in the State of Maine" (H. P. 1661) (L. D. 1770) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

Consent Calendar

First Day

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

(S. P. 673) (L. D. 1777) Bill "An Act Relating to Winter Closing of Town Ways" — Committee on Transportation reporting "Ought to Pass"

No objection being noted, the above item was ordered to appear on the Consent Calendar of February 7.

(S. P. 705) (L. D. 1841) Bill "An Act to Increase Real Estate Broker and Salesman License and Examination Fees" — Committee on Business Legislation reporting "Ought to Pass"

On the objection of Mr. Lizotte of Biddeford, was removed from the Consent Calendar.

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

(S. P. 697) (L. D. 1833) Bill "An Act to Amend the Provisions of the Maine Certificate of Need Act Governing the Issuance of an Emergency Certificate of Need" — Committee on Health and Institutional Services reporting "Ought to Pass"

(H. P. 1598) (L. D. 1709) Bill "An Act Concerning the Category of Modified Antique Autos under the Motor Vehicle Statutes" — Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-764)

(H. P. 1613) (L. D. 1723) Bill "An Act to Clarify Procedures Involved with the Municipal Shellfish Conservation Program" — Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-766)

(H. P. 1650) (L. D. 1759) Bill "An Act to Authorize a Bond Issue for Franklin County for the Construction of a New Detention Facility" — Committee on Local and County Government reporting "Ought to Pass"

No objection being noted, the above items were ordered to appear on the Consent Calendar of February 7.

(H. P. 1651) (L. D. 1760) Bill "An Act to Authorize the Town of East Millinocket to Purchase the Assets of Northern Water Company" (Emergency) — Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-767)

On the objection of Mr. Davies of Orono, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-767) was read by the Clerk and adopted.

The SPEAKER pro tem: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker and Members of the House: There is a slight time constraint in getting this bill enacted so that the Town of

East Millinocket can proceed in an appropriate fashion with obtaining the water district in their community. To meet that time schedule, it is necessary for us to expedite the passage of this bill and send it to the other body.

Thereupon, on motion of Mr. Davies of Orono, under suspension of the rule, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

(H. P. 1737) (L. D. 1855) Bill "An Act Providing for the Election of a Deputy Moderator at Town Meetings" — Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-768)

No objections being noted, the above item was ordered to appear on the Consent Calendar of February 7.

Consent Calendar

Second Day

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

(S. P. 659) (L. D. 1697) Bill "An Act to Validate Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 37" (Emergency)

(S. P. 678) (L. D. 1785) Bill "An Act to Allow the City of Portland to Sell or Lease its Central Fire Station" (Emergency) (C. "A" S-404)

(H. P. 1686) (L. D. 1794) Bill "An Act Relating to State Liability for Damages Suffered on Certain State and State Aid Highways"

(H. P. 1674) (L. D. 1781) Bill "An Act to Add the Commissioner of Educational and Cultural Services to the Energy Testing Laboratory of Maine and to Correct References to the Oil and Solid Fuel Burner Technicians Licensing Board" (C. "A" H-763)

(H. P. 1752) (L. D. 1868) Bill "An Act to Revise the Local Registration Program to Authorize the New Registration of Trucks Weighing more than 6,000 Pounds"

(H. P. 1675) (L. D. 1782) Bill "An Act Relating to the Maximum Seating Capacity of School Buses Transporting a Combination of Students Attending Grades Kindergarten through 12"

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

Second Reader

Tabled and Assigned

Bill "An Act to Permit Participating Local Districts of the Maine State Retirement System to Amend Retirement Benefits for Policemen and Fire Fighters Prospectively" (H. P. 1665) (L. D. 1774)

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

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

Mr. TUTTLE: Mr. Speaker, Men and Women of the House: I didn't rise yesterday on this bill because I recall last session that we debated this issue and passed L. D. 470, a similar bill on this subject, and I felt that the issue had been debated thoroughly. But according to my latest information, I understand that this bill may be in conflict in two areas. It may be in violation of the Maine Constitution as it pertains to collective bargaining and it could be in further violation as it pertains to the most recent retirement legislation before the Congress.

I would hope that this bill could be tabled for two legislative days, until we receive a ruling from the Attorney General's Office that I submitted yesterday.

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

Mr. BAKER: Mr. Speaker, I move we table

this bill for two legislative days.

Whereupon, Mr. Theriault of Rumford requested a roll call vote.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. 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 pro tem: The pending question is on the motion of the gentleman from Portland, Mr. Baker, that this matter be tabled pending passage to be engrossed and specially assigned for Friday, February 8. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Baker, Barry, Beaulieu, Benoit, Bowden, Brennerman, Brodeur, Bunker, Call, Carroll, Carter, D.; Churchill, Connolly, Cox, Curtis, Davies, Dexter, Diamond, Doukas, Dudley, Dutremble, D.; Gowen, Gwadnosky, Higgins, Hobbins, Jacques, P.; LaPlante, Lewis, Lizotte, Maxwell, Mitchell, Nadeau, Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Post, Reeves, P.; Tuttle, Vincent, Vose, Wood, Wyman.

NAY — Austin, Bachrach, Berube, Blodgett, Bordeaux, Boudreau, Brown, A.; Brown, D.; Brown, K.L.; Brown, K.C.; Carrier, Carter, F.; Chonko, Cloutier, Conary, Cunningham, Damren, Davis, Dellert, Dow, Drinkwater, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Gillis, Hall, Hanson, Hickey, Huber, Hunter, Hutchings, Immonen, Jackson, Jalbert, Kane, Kany, Kiesman, Lancaster, Leighton, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Masterman, Masterton, Matthews, McHenry, McKean, McPherson, McSweeney, Morton, Nelson, A.; Paradis, E.; Payne, Peltier, Peterson, Reeves, J.; Rolde, Rollins, Sewall, Sherburne, Silsby, Simon, Small, Smith, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Torrey, Tozier, Twitchell, Wentworth, Whittemore.

ABSENT — Berry, Birt, Brannigan, Elias, Fowlie, Gray, Howe, Hughes, Jacques, E.; Joyce, Kelleher, Laffin, Leonard, Locke, Lougee, Martin, A.; McMahon, Michael, Nelson, M.; Prescott, Roope, Soulas, Sprowl, Tierney, Violette, The Speaker.

Yes, 45; No, 80; Absent, 26.

The SPEAKER pro tem: Forty-five having voted in the affirmative and eighty in the negative, with twenty-six being absent, the motion does not prevail.

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

Mr. TUTTLE: Mr. Speaker, Men and Women of the House: I think maybe the best way to go about this bill is to go over some of the ins and outs of the bill itself.

The bill allows local participating districts who have elected a benefit plan the opportunity to discontinue those benefits prospectively and provide other benefits in its place for a class of new employees. It may affect benefits for current members of the retirement system, depending on one's own interpretation.

This bill has no fiscal impact on the state, but it could potentially increase or decrease the cost of retirement benefits to local participating districts, depending upon the benefits selected, submitted or eliminated from the local district's current benefit plan and whether or not this bill is found to be in conflict with the present state and federal statutes.

Chapter 9-A of Title 26 provides for collective bargaining for municipal employees. Retirement benefits may be a subject of that collective bargaining.

Normally collective bargaining for retirement benefits at the local level may take two forms—the first a certain latitude for a local participating district's retirement plan is permitted under the current retirement laws. A

district may, as permitted by existing statutes, elect from several benefit options. Participating districts may also elect to provide or not provide new benefits afforded state employees by recent enacted legislation. The public law enacting those provisions will often state that local districts may provide such benefits at their election.

Secondly, a bargaining agreement may also contain a recommendation for a benefit which is not currently provided a local district under any option. This is a very tenuous at best since any change not currently provided must be enacted by the state legislature. Neither the municipality nor the union can make that change. In essence, they can only agree to try to get legislation introduced and to actively support its enactment. This, as you might surmise, is never a sure thing.

Given the nature of this proposal, it is unlikely to ever appear in a collective bargaining contract, but most unions would probably prefer to bargain for a definite benefit rather than a promise to try to obtain some benefit subject to legislative approval.

This bill increases the number of options available to a local participating district in its retirement plan. Accordingly, it increases the readily available options which could be the subject of a collective bargaining agreement and litigation and suit.

I understood the problems that the city of Rumford has had, and I sympathize with it, but I feel that before we pass this bill we must be assured that it will not cost the state and make the present retirement system more complex than it is already.

At this time, I move for the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER pro tem: Mr. Tuttle of Sanford moves that this Bill and all its accompanying papers be indefinitely postponed.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind everyone that the good gentleman from Rumford, Mr. Theriault, explained what this bill does the other day, very adequately I thought. Since the legislation was mine in the previous legislature and was adopted, I feel as though it is incumbent on me to explain what is taking place.

The problems stem from the fact that in the drafting of that bill last year, it was inadvertently constructed in such a way that some communities, by the nature of their charter or something else, were left out. All this bill intends to do is bring those communities on line with the rest.

What does the intent of last year's legislation and this current legislation wish to do for those communities that were inadvertently omitted last year? All it does is enable the inhabitants of a community, either through their vote or through the negotiating process in a contract, to set benefits in their municipal employee contracts and for retirement for prospective employees. It has nothing to do with employees who are already in the system. Their benefits cannot be reduced. But it does give communities the opportunity to recognize the financial facts of life and negotiate for prospective employees a different rate.

It is a fact that some of our communities are fast approaching the point where benefits equal or exceed half of their regular pay, and these are escalating automatically. I think you can all see the problems that are going to be involved. It is only fair that the communities that were inadvertently omitted last year through technicality now be included in the legislation.

It is reasonable legislation, it has not been challenged. If it is, so be it, it will have to withstand the test, and I certainly hope that you will not vote for indefinite postponement of this bill, that you will accept it and you will allow

the communities to have freedom of action as they negotiate with their future employees.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I would just like to ask somebody a couple of questions, if they would be kind enough to answer them. One, does this bill set up double standards as far as new employees are concerned in that they would have to join some other program of retirement? Secondly, what does this do for the large city fire departments.

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

Mr. PAUL: Mr. Speaker and Members of the House: I would like to answer the good gentleman from Lewiston, Mr. Jalbert's question. I was a member of the committee. It is my understanding that this bill would in fact do that, create a double standard, as I explained yesterday, a double standard where a new employee would be apt to have a very different retirement plan than a present employee. So the answer to his question is yes.

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

Mr. MORTON: Mr. Speaker, I beg to differ with the good member from the southern part of the state. This bill sets up nothing here as far as standards are concerned. This bill allows for the negotiation between the city and the town and the unions that exist, and if they, in the process of their negotiations, set up a different system for prospective employees than for the present ones, that is a legitimate negotiation and it should be honored. I think that is one thing we must emphasize. We are not setting up any double standards here in the legislature. They may turn out to come about, but I think it is only reasonable, when you see what is happening and also realize that anyone who decides to go to work for a community will know when he goes to work under what circumstances he is working. If he chooses not to go to work because there is a different standard, that is his business, but I think it is also the business of the people of the community to be in a position to control their destiny to some extent. So, this bill does not set up any standards; it does allow for the negotiations.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I would like someone to show me anywhere in that bill where it says that this issue "shall" be negotiated. That is my concern, because the communities can opt not to negotiate it at all. If it were to have been made a negotiable item, then maybe I would be willing to adopt that concept.

Already in my community, our fire fighters and police officers have been told that it can be done without negotiations and that it may very well be done in that manner if they will not accept a 25 year retirement plan at half pay for all new employees.

I do contend that it would set up two classes of employees within one employment circumstance. I also contend that it can prevent and it will distress the collective bargaining process as established.

When L. D. 470 was being passed by this body last year, I challenged it and I brought in comments from the Maine Labor Relations Board, who had reviewed that particular document, and I believe that the comments of the Maine Labor Relations Board said that if anything like that happened in the new communities, it certainly would be challengeable and they would become rather busy.

We are already informed that there is a court case being processed in Massachusetts over the same issue.

The tabling motion that was requested a few moments ago by Representative Tuttle was made because we have asked a series of ques-

tions to the Attorney General's Office re this issue. We were asking for a two-day time period so we could get some answers relating to this bill and again the impact of L. D. 470. You have chosen not to allow us the time to do the research and to evaluate what is happening here, and I don't know what to do about it or what the process is.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I move this item lie on the table for one legislative day.

Whereupon, Mr. Theriault of Rumford requested a roll call vote.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. 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 pro tem: The pending question is on the motion of the Gentleman from Lewiston, Mr. Jalbert, that this matter be tabled for one legislative day pending the motion of Mr. Tuttle of Sanford to indefinitely postpone the Bill and all accompanying papers. All those in favor of tabling will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Blodgett, Bowden, Brennerman, Brodeur, Bunker, Call, Carrier, Carroll, Carter, D.; Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Davies, Dexter, Doukas, Dow, Dudley, Dutremble, D.; Fenlason, Fowle, Gowen, Gray, Gwadosky, Hall, Hobins, Jacques, P.; Jalbert, Kane, LaPlante, Lewis, Lizotte, MacBride, MacEachern, Maxwell, McHenry, McKean, McSweeney, Mitchell, Nadeau, Nelson, N.; Norris, Paradis, P.; Paul, Reeves, P.; Rolde, Simon, Smith, Strout, Torrey, Tozier, Tuttle, Vincent, Vose, Wood, Wyman.

NAY — Aloupis, Austin, Berry, Berube, Boudreau, Boudreau, Brown, A.; Brown, D.; Brown, K.L.; Brown, K.C.; Carter, F.; Chonko, Conary, Damren, Davis, Dellert, Diamond, Drinkwater, Fillmore, Garsoe, Gavett, Gillis, Hanson, Hickey, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kany, Kiesman, Lancaster, Leighton, Lougee, Lowe, Lund, Mahany, Marshall, Masterman, Master-ton, Matthews, McPherson, Morton, Nelson, A.; Paradis, E.; Payne, Pearson, Peltier, Peterson, Reeves, J.; Rollins, Sewall, Sherburne, Silsby, Small, Sprowl, Stetson, Stover, Studley, Tarbell, Theriault, Twitchell, Wentworth, Whittemore.

ABSENT — Birt, Brannigan, Dutremble, L.; Elias, Howe, Hughes, Jacques, E.; Joyce, Kelleher, Laffin, Leonard, Locke, Martin, A.; McMahon, Michael, Nelson, M.; Post, Prescott, Roope, Soulas, Tierney, Violette, The Speaker. Yes, 63; No, 65; Absent, 23.

The SPEAKER pro tem: Sixty-three having voted in the affirmative and sixty-five in the negative, with 23 being absent, the motion does not prevail.

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

Mr. HOBBS: Mr. Speaker, a point of inquiry. If, in fact, an opinion of the Attorney General is forthcoming, would it be appropriate for a motion to be made to table this matter unassigned, to a time certain when an opinion will be forthcoming from the Attorney General?

The SPEAKER pro tem: In answer to the gentleman from Saco, Mr. Hobbins's question, we have exhausted all tabling motions because we have asked to table the bill two legislative days, which is the longest, and then went to one legislative day, which is the only other alternative. Because tabling unassigned would be even longer than the longest day that we have already exhausted, that motion would be out of

order.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain my position as to why I asked the questions that I asked and why I made the motion to table.

My faith in Chief Theriault, as I know him and I have known him for many years, is one of the highest that I have for several members of this House. I feel exactly the same way about the gentleman from Farmington, Mr. Morton.

In this instance, the reason I did this is because I don't know how to vote. I am told that this is going to affect my community. I have some feeling at home for these people who are fire fighters and that is the reason for it. The committee seems to be at loggerheads on this thing and we are losing a lot of time and we are going to keep losing a lot of time. This is not going to end with this.

I am going to try another tactic. I don't know how far I am going to get with it but I would like to know what to do. Sometimes when I am stupid, I don't know, I like to ask, I like to find out and I like to do the right thing, that is what I am here for.

Questions have been asked of the Attorney General's Office. Those questions have not been returned, so I don't know what is in those questions, I don't know what the answer is going to be because we don't have it. I am told this is going to affect my community and I am told it is going to affect the cities in Maine.

I voted for Representative Theriault yesterday and I got four or five calls when I got home. I just want to make sure that I know what I am going to do so somebody is not going to be yanking a roll call and put it under my nose and say, what did you do that for? If you did it, why didn't you inquire?

Mr. Speaker, I move that this bill be recommitted.

The SPEAKER pro tem: The pending question before the House presently is on the motion of the gentleman from Sanford, Mr. Tuttle, that this bill be indefinitely postponed, but the motion from the gentleman from Lewiston, Mr. Jalbert, to recommit this bill does take precedence, so that motion is before us at this time.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I would object to the recommitting of the bill. I see nothing being accomplished by that.

Can I debate the bill itself and reassure Mr. Jalbert and others about this matter?

The SPEAKER pro tem: The Chair would answer in the affirmative.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: First, the City of Lewiston will by no means be affected by this bill, no means whatsoever. If you want me to go a little further in this matter, I will enumerate the districts that will be affected by this bill and here they are: Scarborough, Skowhegan, Waldoboro, Waldo County, Waterville fire and police, Wells, Baileyville, Bar Harbor, Bath, Brewer, Eliot, Ellsworth, Gardiner, Kittery, Lincoln, Millinocket, Old Orchard Beach, Orono, Presque Isle, Rockland, Rumford fire and police and Saco. These are the cities that are under the plan that would be affected by this, but that doesn't necessarily mean that these cities will be affected by this. This only makes it optional. The law itself is not compulsory; they can do as they choose about it.

In answer to some of the others, this does not freeze the options on the retirement plans that the districts are now operating under. In fact, rather than freeze the options, it increases them. It gives them another option, it doesn't freeze the present ones. They can negotiate either way.

I am afraid that I didn't make all my notes

plain enough, so maybe I will not be answering all these questions but I would be happy to.

About the negotiations being possible, I ask you right now in any of these districts, if the two parties get down to negotiating about retirement in the retirement system, is there any negotiation possible? There is not. There is definitely no chance to negotiate at this time on retirement. The only thing that you can negotiate about retirement at the present time is negotiate for the plan to be more expensive, give bigger benefits. There are no negotiations to go down with, to reduce the cost, to make less benefits, if you will. There is no way you can do that. That is why L. D. 470 was proposed, that is why L. D. 1774 is proposed, to be able to negotiate on both sides of the table. If you sit down at the table now, the only ones that can say anything about retirement are the ones that want increased benefits, who want more. The other side can't say anything about having less. There is no possible way you could do it unless this bill is passed.

This bill is only a bill to correct a situation that was left out in L. D. 470 last year. As far as the Attorney General's opinion is concerned, there is no need for the Attorney General's opinion on this. This law is already on the books for other communities, and therefore, could be challenged in the courts if anyone felt that it was unconstitutional. That is the process they have to go through. The Attorney General's opinion could have no effect on those communities who are already operating under this law. The only thing the opinion would do, at the worst, is delay this bill so it could not go into effect during this session and would require a new bill in the 110th Legislature. At the very least, there would be a delay of two or three days in the passage of this bill and it would lengthen our legislative process.

I am against recommitting because of the fact that if you recommit a bill, it goes before the committee, the committee is going to take action on it again and, as far as I know, I don't see what can come out of that committee any different than it is at the present time. Those that were against the bill certainly voted that way. There were three "Ought Not to Pass" on that bill. I can't see what good it would do to send it back to the committee but extend the process.

I hope you will vote against recommitting.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that the president of the Lewiston Fire Fighters Union, a young man by the name of Marcel Lessard, attended the hearing and made the statement that this bill would affect Lewiston, Portland and other large communities.

Before I make another move, I would like to have that question answered. Is that so? Was he there? Did he make that statement or didn't he? Those are the things I want to find out.

I don't think there is a fifth of the House here that really knows too much about this bill. I don't and when I get these kind of calls, it is not only my prerogative but my duty to see what I can do towards protecting these people because those are the people that I represent.

Was Mr. Lessard there? Did he make the statement that he would be opposing the bill and it would hurt these cities? If that is so, I would hold to my motion. If it is not so, Mr. Speaker, I will stop wasting your time and everyone else's and, as usual, being the diplomat that I am, would withdraw my motion.

The SPEAKER pro tem: The gentleman from Lewiston, Mr. Jalbert, has posed a series of questions through the Chair to any member who may care to answer.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I may have misled

Representative Jalbert. I made a comment to him that Marcel Lessard is opposed to this bill. I did not mean to imply that he was at the hearing. The Maine Council of Fire Fighters representatives, of which Mr. Lessard is an officer in that group, certainly was represented at the hearing. Rod Pierce, I believe, represented the council and Mr. Lessard is a member of the council.

I work constantly with fire fighters at home and throughout the state and I know what their position is. They are opposed to this bill. They did take a position and researched it and did indicate, because there were representatives there from my Portland Fire Department who spoke against the bill and it will affect Portland, Lewiston and other communities.

I am sorry, Mr. Jalbert, if I implied that Mr. Lessard was at the hearing; he was not, but he is an officer of the Maine Council of Fire Fighters and their executive board did vote to oppose this bill.

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

Mr. PAUL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make crystal clear, hopefully, answer that question for the good gentleman from Lewiston, Mr. Jalbert. Mr. Lessard was there at the hearing. He was, in fact, at the hearing and he did, in fact, testify on behalf of the Lewiston Fire Fighters and his testimony was that of opposition to this bill.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I am a bit troubled this morning about this bill. We have exhausted practically every motion to table it pending further consideration and further investigation to its effects. I think the gentleman from Lewiston, Mr. Jalbert and others had raised some very valid points and I think we ought to consider them very carefully before we pass this piece of legislation.

I can understand the concerns of the gentleman from Rumford, Mr. Theriault, insofar as his reservations about recommitting this bill. I would rather not have done that, but since we have exhausted our tabling motions, I don't see what other course of action would be available to us if we are, in fact, to determine the impact of this bill.

The gentleman from Farmington, Mr. Morton, in his remarks said that this bill is not creating a double standard. It doesn't mention standards in the bill and it doesn't set standards. Well, we know that. The bill is not a very long bill and if you have read it, you will see by the technical wording of the bill that it doesn't set standards. However, the gentleman from Sanford, Mr. Paul, and others who are opposed to this bill have pointed out that the impact of the legislation, if it is passed, could, in effect, set a double standard. I believe, if I listened, and I listened very carefully to Mr. Morton's remarks, he did not contend that this was not a possibility. He says that in a technical sense the bill doesn't set standards, but then he said, if the bill passes and this is the result of it, then that will have to be the way that it is. So he is not denying the possibility that double standards could be set.

My concern, and this bill did not come before our committee but it is a bill that affects a great number of employees in the state, is that we ought to be very careful before we pass one single piece of legislation that is going to have any impact whatsoever on the level of benefits that a large portion of our population and employees are receiving. We are talking about a great number of fire fighters in this state, a great number of policemen who risk their lives practically every single day on behalf of the public and I am very concerned, before we take anyone's word on this and pass a bill which is going to give anybody a local option or any other sort of option to affect or rescind or to

substitute or do anything else to the level of benefits our working people receive.

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

Mr. MORTON: Mr. Speaker, the gentleman from Pittsfield is correct in indicating that the possibility exists. But I want him to understand and agree with me, and I am sure he does, that when he goes into the beautiful rhetoric about these people rising their lives and everything that he is not talking about one single person that has presently got that job — not one. It does not apply to people presently working; he knows it and I just want everybody else to understand that. This is prospective — it was prospective when the bill was first passed and this does nothing more or less than bring other communities in under the bill.

There already have been negotiations conducted in which two different kinds of retirement systems have been agreed to, and if you think there is something wrong with that, if you think the people of a community don't have a right to try to control the expenses in their communities, then go through these shenanigans, vote to recommit, do all the rest of it, but if you think the people of the community have a right to negotiate these things, then support Mr. Theriault.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I was hoping that my dear friend from Farmington could see through my position and what I was doing. Everything has been exhausted as far as tabling is concerned. The recourse that I took was for this reason here. I want to hear the answer to those questions, and we can do that between now and tomorrow.

I am sure that the gentleman from Rumford, Mr. Theriault, and I am sure the young man from Sanford, Mr. Paul, can see that we get those questions, because here is my position — if the bill was to be recommitted, I would immediately send a note to the Clerk to hold the bill until tomorrow, which is within our rules and which I can do. By the time it comes around tomorrow, it will be at the end of the calendar and then we wind up with the answers. That is all I want.

I have heard more differences of opinions here today than I did Monday, and I would like to know just what I am going to do, I am entitled to know what I am going to do. When questions are asked, they should be answered. That is the reason why I move to recommit. I don't want the bill recommitted and everybody in this House knows that, I want to go home March 10, not March 15. That is the only way I can go, and I like rules, that is what we use and that is what they are on the books for, and I kind of like this kind of an operation. I am thinking to myself, and I say "What other chesnuts can I go to?" I have gone to this one here and I have no idea at all of recommitting this bill. I will send a note down to Mr. Pert the moment this bill is recommitted and hold it for tomorrow and I want no part of recommitting — I want the answer to the questions. When the answers are given to me, then I will vote accordingly. That was my reason. I know Mr. Theriault knows I don't want the bill recommitted, but I would like to have you vote that way today so I can have the bill held so we can try to get the answers and resolve this thing once and for all because we have got other things to do.

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

Mr. GARSOE: Mr. Speaker, I want to help out the gentleman from Lewiston. I wouldn't want to be in the shoes of those people who have misinformed him, because it was on the basis of misinformation that he made this motion to recommit. So we have no need to follow through with his motion. I hope he will

either withdraw it or we will kill it, and then I will volunteer to hold the bill at whatever posture it is when it leaves here today. There is absolutely no need to go through this procedure of recommitting and holding, because let's let it go on its way and I will volunteer to hold that bill overnight for the good gentleman from Lewiston.

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

Mr. THERIAULT: Mr. Speaker, I don't know what answers are necessary. I tried to answer all the questions that were asked. If is the answers to the questions that were sent to the Attorney General, I again will say that there is no need of any opinion from the Attorney General.

If there is any question about the constitution of this bill, it can be questioned in the courts. The law is already on the books. This is only an addition to the law that would permit these communities that were left out in the last session on L. D. 470, and I don't see any reason whatsoever why the Attorney General's opinion would change anything. The only thing it can do is delay us again — delay and more delay.

As far as this bill is concerned, if there is any question in anyone's mind about the Attorney General's answers, okay. All we are going to do is send this bill to engrossment. It is going to go to the Senate, it is going to be there two days and it will be back here for enactment. If you still don't believe anything and want to have the Attorney General's answers, they will be here by this time and you can vote against the bill. I don't see any reason for the delay any longer.

Thereupon, Mr. Jalbert of Lewiston requested permission to withdraw his motion to recommit, which was granted.

The SPEAKER pro tem: The Chair, to clear up a confusion and because there has been intervening action between the tabling motion and present posture of the bill, the Chair would make a ruling to entertain a motion to table for one legislative day if any member so desires.

Thereupon, Mr. Jalbert of Lewiston moved that the Bill be tabled for one day.

Whereupon, Mr. Theriault of Rumford requested a roll call vote.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. 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 pro tem: The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this Bill be tabled for one day pending the motion of Mr. Tuttle of Sanford to indefinitely postpone the Bill and all accompanying papers. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Blodgett, Bowden, Brennerman, Brodeur, Brown, A.; Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dudley, Dutremble, D.; Dutremble, L.; Fenlason, Fowlie, Gillis, Gray, Gwadosky, Hall, Hobbins, Jacques, P.; Jalbert, Kane, Kany, Kelleher, LaPlante, MacBride, MacEachern, Mahany, Maxwell, McHenry, McKean, McSweeney, Mitchell, Nadeau, Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Post, Reeves, P.; Rolde, Simon, Smith, Soulas, Torrey, Tozier, Tuttle, Twitchell, Vincent, Vose, Wood, Wyman.

NAY — Aloupis, Austin, Berry, Bordeaux, Boudreau, Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carrier, Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Dow, Drinkwater, Fillmore, Garsoe, Gavett,

Hanson, Hickey, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, Marshall, Masterman, Masterton, Matthews, McPherson, Morton, Nelson, A.; Paradis, E.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Sewall, Sherburne, Silsby, Small, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Wentworth, Whittemore.

ABSENT — Birt, Brannigan, Dexter, Elias, Gowen, Howe, Hughes, Jacques, E.; Joyce, Laffin, Lizotte, Locke, Martin, A.; McMahon, Michael, Nelson, M.; Prescott, Roope, Tierney, Violette, Mr. Speaker.

Yes, 66; No, 64; Absent, 21.

The SPEAKER pro tem: Sixty-six having voted in the affirmative and sixty-four in the negative, with twenty-one being absent, the motion does prevail.

Passed to be Engrossed

Bill "An Act Relating to Publication of School Records Under the Education Laws" (H. P. 1595) (L. D. 1706)

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

Orders of the Day

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

Bill, "An Act Appropriating \$1,500 for the Mt. Desert Island High School Band to Represent Maine in the Cherry Blossom Festival Parade" (Emergency) (H. P. 1794) (Committee on Appropriations and Financial Affairs suggested)

Tabled—February 4, 1980 by Mr. Tarbell of Bangor.

Pending—Reference.

On motion of Mr. Tarbell of Bangor, retabled pending reference and specially assigned for Friday, February 8.

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

SENATE REPORT — "Leave to Withdraw" — Committee on Energy and Natural Resources on Bill, "An Act Relating to Authority of the Town of Crawford to Sell Lots Within its Public Reserved Lands" (S. P. 681) (L. D. 1797)

Tabled—February 5, 1980 by Mr. Blodgett of Waldoboro.

Pending—Acceptance of the "Leave to Withdraw" Report.

Thereupon, the Report was accepted in concurrence.

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

Bill, "An Act to Establish the Boundary between Rockport and Rockland" (S. P. 658) (L. D. 1698) (S. "A" S-403)

Tabled—February 5, 1980 by Mr. LaPlante of Sabattus.

Pending—Passage to be Engrossed.

Thereupon, on motion of Mr. LaPlante of Sabattus, retabled pending passage to be engrossed in concurrence and tomorrow assigned.

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

Mr. NORRIS: Mr. Speaker, I would inquire if the House is in possession of House Paper 1623, L. D. 1733, Bill "An Act to Authorize Cutting of Trees on State Park Lands"?

The SPEAKER pro tem: The Chair would answer in the affirmative, having been held at the request of the gentleman.

Mr. NORRIS: Mr. Speaker, having voted on the prevailing side, I now move reconsideration whereby we accepted the Minority "Ought Not to Pass" Report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against this motion to reconsider. There is very little change since yesterday. There has been very insubstantial growth of trees since yesterday, there has been very little change in human nature since yesterday.

I will admit that this idea is an attractive idea, but I say to you that the cutting that is proposed cannot be controlled within the manpower that is available within the Parks and Recreation Department once these parks are open for cutting. It would require a much larger budget in the Parks and Recreation Department to police any such cut no matter how good the intentions are that are put forth.

The decision is really very simple. Do we want parks in the State of Maine that can be controlled within the budget that is provided by this body or do we want to increase the manpower of the Parks and Recreation Department so they can attempt to control it and have a park and a woodlot which would most probably wind up more woodlot than park, or do we want to retain the parks uncut at this point in history because the emergency that might be indicated does not exist at this time?

I will just ask you to remember one thing—we can cut a tree in 40 seconds but it takes 40 years to grow it. Do we want to rush into something like this?

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will reconsider in order to answer some of the problems some people have with the bill. I could then offer an amendment, take care of some of the problems that some constituents are finding with it.

I think a great deal of you people are enjoying the philosophy of it, but some of them are having a problem with the way the bill is written. I only hope that you will go along with reconsideration.

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

Mr. HICKEY: Mr. Speaker, I would like to ask for a further clarification of this bill. It appears to me that forest management is saying to us, we would like to have the right to clean up fallen, diseased and destroyed trees. I would like to know if this is actually what the bill is saying.

The SPEAKER pro tem: The gentleman from Augusta, Mr. Hickey, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: As was brought up in yesterday's discussion, under a recent interpretation by the AG's office, the Bureau of Parks and Recreation cannot cut any trees at all for any forest management practices whatsoever unless it can be directly related with recreation, such as clearing some trees for a parking lot or for a trail or if there is a tree ready to fall on someone who may be traveling through, then that tree may be cleared out. Or you could interpret it a little more broadly and say that possibly you could cut some firewood in that park for some people who wanted to build fires in that park. That is the reason why the department has asked for clarification by the legislature.

As it now stands, there cannot be forest management outside of these very restricted areas that I speak of. In fact, this works counter to some of the agreements under which the state now in trust some of the parks, land given to the State of Maine in order that and under the conditions that they be properly managed using properly supervised forest management practices, and that is the reason we need to have this. In no way should we be thinking that we are going to have clear cutting and stripping of the parks, that is complete distortion of the

whole issue.

I would urge you to vote for reconsideration on this measure.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I voted on the prevailing side yesterday on this, or voted to accept the Minority Report. After this took place, I talked to my good friend Mr. Hall from Sangerville, and he seemed to feel that one of the big objections that a lot of people had was the fact that the public was going to be allowed to go in the parks and do the cutting. He assured me that if I would attempt to reconsider for him, that he would, in his amendment, preclude the general public or take that portion out of the bill, so if there is to be any cutting done in the park, it would be done by professionals and the slash would be cleared up so it wouldn't create a problem. I agreed to do this for him. Naturally, from the action that I am taking, I am perfectly happy to have this reconsidered, perhaps accept the other report, give him a chance to amend the bill, and if he can't get it in such a form as to satisfy a majority of the people, then we will go ahead and kill it.

The SPEAKER pro tem: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: When this bill came before our committee, it was obvious from the testimony that was presented that the original intent was that the public would be allowed, under controlled supervision, to enter the parks and cut their firewood. The line of questioning that went on in the committee indicated, I am sure, that there are very great problems with this philosophy. Then it was advanced that the way this would be done, they would hire a contractor to go in, like in any other private piece of forest land, and make a cut on the park by a private contractor and that the wood would not be sold in competition with a local wood contractor but would be sold at a comparable price. So the wood is not going to help the needy or the elderly or any other person in that category in providing these particular benefits.

It was testified also at the committee hearing that they were, at the present time, doing cuts of diseased trees for firewood within the park's use itself and even sawed logs to make park benches, buildings, etc., within the parks, so there is some cutting going on.

I would reiterate what I said yesterday, that my big concern is that once the word goes out that they were going to allow fire wood cutting on the state park lands, whether it is going to be by a contractor or whomever, you are not going to be able to control the cut that takes place because the people that want to cut some wood are going to look upon the state land as everyone's land and they have just as much right to the wood as the contractor that obtained the contract to go in and make a dollar by cutting that wood. They are going to get out there in the parks and take out trees that were never intended to be cut and all the good regulations and amendments that can be written and submitted will not control human nature.

The SPEAKER pro tem: The Chair recognizes the gentleman from Millinocket, Mr. Marshall.

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to bring out one point here. I see a lot of merit in this bill, yet I certainly share the concerns that Mr. Kiesman shares.

There is one point here that I think should be brought up. Some of you may recall, and for those of you who don't a few years ago we had a very serious fire in Baxter State Park and that fire was due to the fact that a few years before there was a storm which blew down a great amount of trees in that section of the park. Under current restrictions, we were not able to harvest that blowdown area and as a result it

became a timber box waiting for a match, and that match came in the form of lightning during a storm. It came very close to destroying that park which we enjoy throughout the State of Maine, so I certainly see merits in cutting and being able to harvest in a professional manner.

I also share the concerns that Mr. Kiesman has that this not be an avenue for the rape of the forest lands by every individual who wants to go in and cut for his particular camp in the Baxter State Park area.

So, it is with the understanding that certain amendments will be proposed that I am willing to vote for this bill today and urge many of my colleagues here to do the same and perhaps we can alleviate certainly a dangerous situation in the woods today, provide an avenue for forest wood products that are certainly in need and still protect the area.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I would like to pose a question through the Chair to any member of the committee who might care to answer.

Was there opposition to this L. D., and if there was, from whom and what were their arguments against the bill?

The SPEAKER pro tem: The gentleman from Bangor, Mr. Kelleher, has posed a question through the Chair to any member of the committee who might care to answer.

The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Members of the House: I may stand corrected, but to my knowledge there was no one who came and spoke in opposition to the bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I thank the gentleman from Waldoboro, Mr. Blodgett, for his answer.

I can appreciate the frustrations of members of this House concerning this document. I would hope that we would reconsider it and attempt to amend any of the frustrations of the members of this body.

Believe me, if there is one area of interest in the State of Maine that is well covered by the people of this state, it is the wood interests in the State of Maine, public parks, the handling of public parks.

I have some uneasy feelings about this document myself. Let the bill be reconsidered, let's accept the "ought to pass" report and then Mr. Kiesman and other members of this House can air their objections to it and we will attempt to amend it. There is nothing wrong with the bill as I see it and if, in fact, the public themselves didn't participate at the hearing in raising any objections, then I think it would be an opportunity for this body who has some frustrations with the bill to do it at the appropriate time.

I do urge the House to reconsider it.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lincolnville, Mrs. Hutchings.

Mrs. HUTCHINGS: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry but I still say that it is a mistake for you people to consider reconsidering since I do not see any way that we can tighten this up to have any control over the wood that might be taken from the state forests.

I will tell you my real concern, because I live next door—our land abuts the state park land, the Camden Hills State Park Land. When we bought the property 15 years ago, which is 70 acres, we thought what wonderful protection to have the state park behind us; no one could build behind us, we have all the privacy in the world. Well, it hasn't proven to be that way and, as a matter of fact, trees that are on our property have mistakenly, by or on purpose I don't know which, been cut by people who

thought that they could take things out of the state park, and I am talking about trees.

Last Sunday I took a walk up there. I went about two miles up into the park and discovered three trees, and that is not very many, I admit, but three trees right on the road that had been cut off about six feet above the ground and they had taken the top part of the tree for whatever purpose they wanted.

I don't see any way that you are going to stop this in the future since they are doing it now. They also take Christmas trees—as many as they want. Sometimes they don't get the tree they want so they will take the top off a great big tree so they can get a nicely shaped Christmas tree.

If anyone can show me how state park personnel can control the cutting that is presently going on or in the future if they are allowed indiscriminate permission to go in there and help themselves, fine, but I don't think it can be done. Since I represent many, many people who live and about the state park land of Camden Hills State Park, I must object to this bill.

Incidentally, I was called to task this morning by someone saying that there are not 27 miles of roads in the Camden Hills State Park. There are, and the Camden-Rockport Chamber of Commerce booklet that they put out advertising the virtues of Camden Hills State Park specifically state that. There may not be 27 miles of what you would call roads that you can drive a car over but there are that many, and I would hope that you would not vote to reconsider.

The SPEAKER pro tem: The Chair will order a vote. The pending question is on the motion of the gentleman from Brewer, Mr. Norris, that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted. Those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Blodgett of Waldoboro requested a roll call vote.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: Yesterday, I was all over the place voting for this bill. I voted 'yes' on a division and then some doubts crept into my mind so I voted 'no' on the roll call.

You remember I asked some questions yesterday about the bill and I didn't feel that they were well answered. I did have an opportunity to go home and talk to a couple of my council members and the town manager. They had absolutely no objections to the bill. They thought that in the long range this might be an excellent way to manage our state parks.

I personally would like to be involved in amending the amended version of the bill. I would like to see some guarantee of local participation. I think some of the problems might be removed if we could have local input on whether or not a state park in our community or region should be opened to cutting.

I urge you to think about voting yes on the reconsideration motion. That is the way I am going to vote today.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: Every time we try to think of some way to utilize some of our energy in the state, we always run into obstacles. The

people back home are still asking, what are you doing in any way, shape or manner to utilize some of the energy, the renewable source that we already have in the state? I find it difficult to go back home and tell the people some of the reasons why we, as common people here, can't sit down and somehow solve simple problems like this. It is a problem today but I assure you, five to six years down the road it is going to be much greater than it is now. I don't think we can afford to overlook any one of the programs that confront us or anything in the future.

The SPEAKER pro tem: The Chair recognizes the gentleman from Houlton, Mr. Peltier.

Mr. PELTIER: Mr. Speaker, Ladies and Gentlemen of the House: Our committee, Natural Resources, had a hearing several weeks back at which a fine lady appeared as a candidate for LURC. During the questioning, someone asked the good lady, "Are you familiar with the logging operations?" She gave a very good answer. She said, "Yes, when you cut trees, you do make a mess and I don't think we need any messes in the state parks."

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

Mr. DRINKWATER: Mr. Speaker, Ladies and Gentlemen of the House: Two points, Mr. Speaker. One point I would like to bring up is that I think these things get out of hand sometimes. I have a camp at Pitchers Pond in Lincolnville and I gave my neighbor some trees that needed to be cut and also some blowdowns. I specifically marked the trees with some paint while he was with me. I specifically told him of eight trees that were in front of the camp that I didn't want removed. He asked if he could do it that weekend and I gave him permission and when I came back on Monday not one of the trees that I had painted had been cut, not a bit of the underbrush had been removed, but he had cut the eight trees that I wanted to save. This is one of the things that worries me.

Another thing that bothers me is that we are going to give it to the contractor. Originally we were going to give it to the professional woodsmen and that professional woodsmen have skidders.

I have to go along with the gentlewoman from Lincolnville on our state park area because that is near my territory. I would hate awfully to see skidders put into that area.

Mr. Kiesman of Fryeburg was granted permission to speak a third time.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I didn't get up to answer the question about whether anybody objected to this because I had spoken twice. I would like to clarify that and tell you that there was someone at that hearing that spoke against it and I just received a note from them. Obviously, they were concerned that I didn't make this point, so I would like to read the note:

"Representative Kiesman: Do not the people of Maine have the right to see and preserve mature trees for aesthetic reasons? These would certainly be the trees cut and I object to having these cut and I so objected at the hearing."

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Wood.

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that we would reconsider. It seems to me that there are 150 of us in here and 33 down in the other body and we have the capabilities of solving what I think might be a minor problem with this bill.

I learned some information today that there is another department of state government that has preserves and they allow cutting. I haven't been able to look into seeing how they do it but it seems we have the capabilities. If we are concerned about state parks, maybe we could run a pilot project in two of the state parks allowing them to do this for a couple of years to get a report on how it works in those state parks. I think to simply dismiss this this

early in the game is unfair to the bill. We all agree that it has some merits and I would like to see us, for a change, try to work out the problems to a bill instead of throwing it away and next year or the next year facing the problem again. I would like to see us begin solving some problems and I think we have the capabilities of doing it and I hope we would reconsider.

The SPEAKER pro tem: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Brewer, Mr. Norris, that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Blodgett, Bowden, Brenerman, Brodeur, Bunker, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Fenlason, Fowle, Gillis, Gowen, Gray, Gwadosky, Hall, Hickey, Hobbs, Huber, Jacques, E.; Jacques, P.; Kane, Kany, Kelleher, LaPlante, Leonard, MacEachern, Mahany, Marshall, Masterton, McKean, McPherson, McSweeney, Mitchell, Nadeau, Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Post, Reeves, P.; Rolde, Simon, Soulas, Tierney, Torrey, Twitchell, Vincent, Vose, Wood, Wyman.

NAY — Aloupis, Austin, Bordeaux, Boudreau, Brown, A.; Brown, D.; Brown, K.L.; Brown, K.C.; Call, Carrier, Carter, F.; Conary, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Fillmore, Garsoe, Gavett, Hanson, Higgins, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Lewis, Lougee, Lowe, Lund, MacBride, Masterman, Matthews, Maxwell, McHenry, Morton, Nelson, A.; Paradis, E.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Tozier, Wentworth, Whittemore.

ABSENT — Berry, Birt, Brannigan, Dudley, Elias, Howe, Hughes, Jalbert, Joyce, Laffin, Lizotte, Locke, Martin, A.; McMahon, Michael, Nelson, M.; Prescott, Roope, Tuttle, Violette, The Speaker.

Yes, 67; No, 63; Absent, 21.

The SPEAKER pro tem: Sixty-seven having voted in the affirmative and sixty-three in the negative, with twenty-one being absent, the motion does prevail.

Thereupon, the House reconsidered its action whereby it failed to accept the Majority "Ought to Pass" Report.

The Majority "Ought to Pass" Report was accepted and the bill read once.

Committee Amendment "A" (H-754) was read and adopted and the bill assigned for second reading tomorrow.

Mrs. Lewis of Auburn was granted unanimous consent to address the House.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct an error that I made yesterday. I stated that when I had introduced a bill that would undedicate the highway funds that it went to the Committee on Transportation and it did not. It went to the Committee on State Government.

(Off Record Remarks)

On motion of Mr. Nelson of New Sweden, adjourned until ten o'clock tomorrow morning.