

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Ninth  
Legislature***

**OF THE**

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 2 to April 3, 1980**

**THIRD SPECIAL SESSION**

**May 22, 1980**

**THIRD CONFIRMATION SESSION**

**July 17, 1980**

**FOURTH CONFIRMATION SESSION**

**July 24, 1980**

**FIFTH CONFIRMATION SESSION**

**September 12, 1980**

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

## HOUSE

Friday, February 15, 1980

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

Prayer by the Reverend Stephen Ericson of the Winslow Congregational Church.

Reverend ERICSON: Let us pray! Almighty and everlasting God, for this day, for our government, for this state and for this opportunity to govern, we give You thanks. We ask You, O God, to bless this government, help it to govern wisely, help it to seek Your law of love and help it to be mindful of the needs of all the people of this State of Maine, especially the poor, those who suffer from injustice, those skeptical of governments and those who cannot help themselves. O God, give this government justice, compassion, fairness and diligence. These things we ask in Your name. Amen.

The journal of yesterday was read and approved.

## Messages and Documents

The Following Communication:

February 14, 1980

Edwin Pert

Clerk of the House  
State House Station #2  
Augusta, Maine 04333

Re: Governor's Report on the Maine Economy

I am pleased to transmit to the Legislature this first annual report on the Maine Economy. In our efforts to expand economic opportunity for Maine citizens, this report was prepared to serve as the basis for State economic development policies and programs. A solid understanding of the State's economy is essential to this task. Therefore, the Governor's Report on the Maine Economy measures and analyzes the dynamics of current economic trends. Recognizing that progress in this area required private participation, we were privileged to receive the advice of numerous Maine business association leaders and private businessmen during the preparation of this document.

Anyone interested in obtaining a copy of this report may contact either my office or the State Planning Office which prepared this document.

Sincerely,

JOSEPH E. BRENNAN  
Governor

Signed:

Was read and with accompanying report ordered placed on file.

## Orders

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

(H. P. 1849) Cub Scouting, which is celebrating its 50th anniversary and which is contained in the youth programs of 409 Pine Tree Council organizations,

Presented by Mr. Cloutier of South Portland (Cosponsor: Mr. Garsoe of Cumberland)

The Order was read and passed and sent up for concurrence. By unanimous consent, ordered sent forthwith to the Senate.

(H. P. 1851) Pat Philippon of Bangor has received the James J. Fitzpatrick annual award for being the state's outstanding schoolboy football player,

Presented by Mr. Tarbell of Bangor.

(H. P. 1852) Jonathan "Gabby" Price, who coached the Bangor Rams to the State football championship, has been named Class A Coach of the year of 1979,

Presented by Mr. Tarbell of Bangor.

Were read and passed and sent up for concurrence.

On motion of Mr. Tierney of Lisbon, the following Joint Order: (H. P. 1850)

ORDERED, the Senate concurring, that

when the Senate adjourns it adjourns to Tuesday, February 19, 1980 at 12 o'clock noon and when the House adjourns, it adjourns to Tuesday, February 19, 1980 at 10 o'clock in the morning.

Was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

### House Reports of Committees Recommitted to the Committee on Taxation

Mrs. Post from the Committee on Taxation on Bill, "An Act to Equalize the Tax Burden Between Organized and Unorganized Territories for the Purpose of Funding the Maine Forestry District Without Cost to the State" (H. P. 1853) (L. D. 1952) reporting "Ought to Pass" — pursuant to Joint Order (S. P. 746)

Report was read.

On motion of Mrs. Post of Owls Head, the Bill was recommitted to the Committee on Taxation, and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

## Divided Report

Majority Report of the Committee on Local and County Government reporting "Ought to Pass" on Bill "An Act Pertaining to the Abandonment of Public Ways" (H. P. 1738) (L. D. 1856)

Report was signed by the following members:

Messrs. COTE of Androscoggin  
PARADIS of Old Town  
STOVER of West Bath  
McHENRY of Madawaska  
BORDEAUX of Mt. Desert  
DRINKWATER of Belfast  
Mrs. WENTWORTH of Wells  
Messrs. NELSON of Roque Bluffs  
LaPLANTE of Sabattus

— 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. REDMOND of Somerset

— of the Senate.

Reports were read.

On motion of Mr. McHenry of Madawaska, the Majority "Ought to Pass" Report was accepted and the Bill read once and assigned for second reading the next legislative day.

### Consent Calendar First Day

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

(S. P. 654) (L. D. 1693) Bill "An Act to Provide Arthritic Drugs to Eligible Individuals Under the Low Cost Drug Program" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-414)

(H. P. 1716) (L. D. 1822) Bill "An Act to Clarify Provisions for Fish Weirs and Clam Ordinances in Unorganized Territories" — Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-793)

No objections being noted, the above items were ordered to appear on the Consent Calendar of February 19, 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. 1720) (L. D. 1824) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Bring into Conformance the Year in which the House and Senate shall be Appor-

tioned"

(H. P. 1762) (L. D. 1888) Bill "An Act Relating to the Effective Date of Administrative Changes in the Employment Security Law" (Emergency)

(H. P. 1785) (L. D. 1894) Bill "An Act to Increase the Level of the Maine Wage Assurance Fund"

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

### Amended Bills Tabled and Assigned

Bill "An Act to Allow the Commissioner of Marine Resources to Exercise Limited Authority over the Conservation of Atlantic Salmon" (H. P. 1630) (L. D. 1740) (C. "A" H-785)

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

On motion of Mr. Fowlie of Rockland, tabled pending passage to be engrossed as amended and assigned for Tuesday, February 19.

## Passed to be Engrossed

Bill "An Act Relating to Plumbing Permits and Waivers for Septic Systems Under Certain Conditions" (H. P. 1727) (L. D. 1846) (C. "A" H-788)

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

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. BROWN: Mr. Speaker, at this time I would like to move for the indefinite postponement of this Bill and all its accompanying papers and would like to speak briefly.

The SPEAKER: The gentleman from Livermore Falls, Mr. Brown, moves that this Bill and all its accompanying papers be indefinitely postponed.

The gentleman may proceed.

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: After the brief discussion that was held on the floor of the House yesterday and after some of the discussion I had with some of the members after the session yesterday, I gave this bill some further consideration and I was concerned as to whether or not I should be addressing the issue this morning. After some consideration, I feel that I should, that I would be remiss if I didn't.

When I came down to Augusta, I came down with the feeling that if there is one thing this state did not need it was additional needless laws. And while I appreciate the intent of the sponsor of this bill, as I look at the bill and as I look at it in its amended fashion, I really believe sincerely that this would be a needless law.

Very briefly, there is a plumbing code which is in effect right now. It is under the jurisdiction of the Maine Department of Human Services, Division of Health Engineering. Very simply, it requires that any building which is being constructed, which is going to be relying on private sewage disposal, i.e. a septic tank and disposal field, must have a soil test and that site must meet certain criteria. That is in effect and working very well.

What this bill does — perhaps I should just say one more thing, and that is, the plumbing code, while it is a statewide code, it is administered by local people, by the local plumbing inspector, and he has the authority of the plumbing code with which to administer his particular function of local plumbing inspector and to see that the code is enforced.

What this bill would do if it passes, it would require that anybody who is building a house on private sewage disposal must have a soil test done before he can even begin any construction. I can understand why that need seems to have been apparent in this bill.

However, the plumbing code is very clear that anybody who is going to be building and using private sewage disposal facilities, if he

doesn't have this test done prior to building his house, he is putting himself in a very perilous position. And if he wants to go ahead and take that chance, then he can go ahead and do so, but he is really playing a dangerous game because he get a \$50,000, \$70,000, \$80,000 half way under construction and he can be stopped, he can be stopped by local officials who are administering a statewide code on a local level. It can be done; it has been done, and I really believe that passage of this bill would be the first step in putting together a statewide building code, something that I am very much opposed to.

On that issue of building code, towns and municipalities now have the right, in fact many of them do require a plumbing permit prior to issuance of a building permit. Some may argue that some towns don't require building permits, and that is true, but, again, that is their prerogative — local control.

The mechanism is there where towns can require a plumbing permit prior to issuing a building permit if they wish, and I think that they should, but it should be done on a local level and it shouldn't be mandated by the state.

Look at the amendment, the last paragraph. It says, "No person may expand a structure using a subsurface sewage disposal system until documentation has been provided to the municipal officers that in the event of future malfunction of the system, the disposal system can be replaced and enlarged to comply with the regulations." You know what that says, ladies and gentlemen? That says that if somebody out in the hinterland wants to add a bedroom to his home, this law is telling him that he has got to prove to the municipal officials that the septic system that he has can handle that particular additional bedroom. That system may have been in for 20 years and he probably doesn't even know what is there and nobody else probably knows what is there but it is working, it is working fine, it has worked for a number of years and it probably will continue to work for a number of years in the future. If that isn't a state mandated, first step to a building code, then what is?

Those are the reasons, ladies and gentlemen, that I am opposed to the bill. Again, I recognize the sponsor's concerns and I appreciate them, but I don't think that this is the way to handle it. So I would hope that you would vote yes on the motion to indefinitely postpone.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: In response to my good friend, Mr. Brown of Livermore Falls, I would like to draw your attention to this amendment on L. D. 1846. Mr. Brown is reading in some material in here that just does not exist in this amendment. You won't find any place in that amendment any mention of a state building code. In fact, it very specifically states that this is only dealing with the municipal officials. It is the local officials who will deal with this.

Mr. Brown also commented that according to the present plumbing code, people would be in a fix if they went ahead and built a forty or fifty or sixty or seventy thousand dollar house and then they wouldn't be able to hook it up. The fact of the matter is, right now people are doing that, they are going to their local officials and because pressures are being they are being granted variances. This simply gives the local officials a greater ability to enforce the present law. It has nothing to do with giving the state anymore powers whatsoever. It just grants more local control.

Therefore, I would urge you to vote against the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. BROWN: Mr. Speaker and Members of the House: Of course there is no mention in here of a statewide building code, but certainly

the implication is there. I really believe that we should be passing laws that people can enforce and not, as my good friend behind me who apparently isn't here today but very often has called "sneaky pete" and this is one of those sneaky pete's. The word 'building code' certainly is not there, but it can be implied.

Mr. Speaker, I would request the yeas and nays.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the gentleman from Waldoboro, Mr. Blodgett. Is a municipality currently able to develop for itself the embodiment of this legislation? Is this permissive legislation or is it, in fact, not permissive legislation?

The SPEAKER: The gentleman from Millinocket, Mr. Marshall, has posed a question through the Chair to the gentleman from Waldoboro, Mr. Blodgett, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. BLODGETT: Mr. Speaker, in response to the question, permissiveness has nothing to do with it, I don't believe. It simply allows the local officials to have some idea of what the soil conditions are at the outset of construction.

Right now, another problem that we are apparently having is that there is a misunderstanding here. You can build a house completely and do everything except the final hookup without that soils test. This simply says that the soils test should be required at the outset of construction so the home builder won't be into it by a considerable amount of money and then be asking for a variance from the present plumbing code.

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

Mr. MARSHALL: Mr. Speaker, I think that does answer my question. This is not permissive legislation, it is mandating, and it is mandating in behalf of what we consider here in the state is the interest of the local municipalities, and I don't think that is a measure which we necessarily deem upon ourselves to have to tell these communities.

I would support the motion for indefinite postponement.

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

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I guess I am going to jump down in the sewer with the rest of us.

This is a problem throughout the state that has come about because of actions of a relative few. One of the reasons for this is because of some of the home rule attitudes that some towns have. They refuse to pass ordinances for their own protection. Consequently, we wind up with waterways, lakes, rivers and streams polluted by unwise development along these, and we have spent millions of dollars in the State of Maine cleaning up lakes and waterways. In fact, we have a lake right here close to Augusta that we had a bill on last year to provide a considerable sum of money to clean up the lake because of unwise sewage systems along the edge of that lake.

When the last major revision of the plumbing code took place, there was a provision put in that is an existing sewer system, subsurface system, existed on a lot, that certain corrective actions, corrective measures, could be taken without putting in a completely new system that did comply with the minimum standards that would take care of the disposal from that particular building.

One thing that has been happening, there are few operators in the state that have taken advantage of this. They will go in and pick up a cottage that exists on the shore of a lake or stream that has one bedroom, very, very minimal sewage disposal requirements, they will expand that house to a three or four bedroom \$70,000 house. Obviously, the system is not going

to support the volume of waste that will be generated. They go ahead and sell it. The owner, after about two or three months, has a problem. Then they go in and look for a permit to expand it to a size that would support the waste from that house and the soils just will not support it. Then they come in for a variance and apply, as has been noted, considerable pressures, and in some cases they will even go to court, and courts are not necessarily noted for following the letter of the law as you or I might interpret it. They look at the situation and they look at an individual here that bought a house in good faith on the presumption that he would be able to live in it. He has got \$70,000 invested in it, if you want to use the figure that has been batted around, and the courts are apt to impose a requirement on the state department to come up with some kind of system that will allow the occupancy of this house. This is one of the problems that this attempts to address.

Purely and simply, all it says is that if you are going to build a house or if you are going to enlarge it to such an extent that it would require a larger system, then find that out before you build a house, find it out before you enlarge a house; don't pass the problem on to somebody else. Don't come into the town and start applying pressure for a variance, don't go to the court for a redress for something that you did yourself.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: I would remind the House that this was a unanimous amendment by the Committee on Energy and Natural Resources, and I think a number of us are known for our real sensitivity to the issue of local control. I would remind you that we had a unanimous report on this bill.

The other thing I would remind you of, I think it has been obscured a little bit, is the fact that in deeming the water quality of the state to be a state concern, the plumbing code that has been referred to here this morning is a 'state plumbing code'; it applies throughout the state. It is enforced by municipal officials. In this amendment, we have done nothing more than give the municipal officials a tool which they can use in cases such as have been described by Mr. Kiesman.

I do hope you will vote against the indefinite postponement motion.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I hold a license for plumbing inspection certification by the state and I believe that this bill addresses a very real problem and a very real concern to the municipal officials out there in the communities. It does head off problems of anticipated potential problems, and the words that have already been mentioned here this morning about the request for variance is very real after the fact.

Mr. Brown of Livermore Falls was granted permission to speak a third time.

Mr. BROWN: Mr. Speaker and Members of the House: I will be extremely brief.

In reference to some of the remarks that some of my very good friends have made, Mr. Kiesman mentioned that this is being proposed because of the actions of a relative few. I think that is a very significant statement that my good friend made — because of the actions of a relative few.

I have been conducting soil tests for about ten years, all with the state, even in the sponsor's county, and I can assure you that this bill is being proposed because of a very few people who are violating what is now law and regulation and the means is there to protect them.

My good friend also mentioned cleaning up the waterways, cleaning up the lakes, and there is nobody that is more of a proponent of that than I. But, again, I would mention to the body that there is a statewide plumbing code, it

is a strict plumbing code, and since the revised code has been in effect since 1974, the waters have been cleaned up a great deal. A plumbing code is now in effect, it is working very well. Let's not add additional verbiage that isn't needed and which has longstanding implications of a statewide building code. That is my biggest concern, and I ask for your yes vote on the indefinite postponement.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Livermore Falls, Mr. Brown, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bordeaux, Boudreau, Brown, A.; Brown, D.; Brown, K. L.; Bunker, Call, Carrier, Carroll, Carter, F.; Churchill, Conary, Curtis, Damren, Dellert, Dexter, Drinkwater, Dutremble, L.; Fenlason, Garsoe, Gavett, Gillis, Gray, Hanson, Hunter, Hutchings, Lancaster, Leighton, Lewis, Lougee, Lowe, Marshall, Masterman, Matthews, Maxwell, McPherson, McSweeney, Nelson, A.; Payne, Post, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Stetson, Stover, Tarbell, Torrey, Tozier, Twitchell, Wentworth, Wood.

NAY — ALoupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Blodgett, Bowden, Brenerman, Brodeur, Brown, K. C.; Carter, D.; Chonko, Cloutier, Connolly, Cox, Cunningham, Davies, Diamond, Doukas, Dutremble, D.; Fillmore, Fowlie, Gowen, Gwadosky, Hickey, Hobbins, Howe, Huber, Hughes, Immonen, Jackson, Jacques, P.; Jalbert, Kane, Kany, Kiesman, Laffin, LaPlante, Lizotte, Locke, Lund, MacBride, MacEachern, Martin, A.; Masterton, McHenry, McKean, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paul, Pearson, Peltier, Prescott, Reeves, P.; Rolde, Simon, Soulas, Studley, Theriault, Tierney, Tuttle, Vincent, Violette, Vose, Whittemore, Wyman, The Speaker.

ABSENT — Berry, Birt, Brannigan, Davis, Dow, Dudley, Elias, Hall, Higgins, Jacques, E.; Joyce, Kelleher, Leonard, Mahany, McMahon, Michael, Paradis, P.; Peterson, Sprowl, Strout.

Yes, 56; No, 75; Absent, 20.

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

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

#### Enactor Tabled and Assigned

An Act to Amend the Pay Schedule of Physicians to Include Actuaries (S. P. 707) (L. D. 1843)

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

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: There has been much discussion in the hall of the legislature in the last few days in regards to this item, not because there is any serious question that we have to alter the pay scale of actuaries but rather that we have to study the ramifications this issue has on collective bargaining. And because all of the answers to these questions are not yet in, I

would request that somebody table this bill for one legislative day.

Whereupon, on motion of Mr. Garsoe of Cumberland, tabled pending passage to be enacted and assigned for Tuesday, February 19.

#### Passed to Be Enacted

An Act Pertaining to the Time for Recording a Tax Lien Mortgage (H. P. 1736) (L. D. 1854) (C. "A" H-769)

An Act to Clarify the Obligations of Certain Public Utilities Regarding Assessments to Defray Expenses of the Public Utilities Commission (H. P. 1748) (L. D. 1864) (C. "A" H-772)

An Act Relating to Interest on Supplemental Assessments under the Tax Laws (H. P. 1750) (L. D. 1866) (C. "A" H-770)

An Act Providing for Administrative Changes in the Maine Revised Statutes Relating to Taxation (H. P. 1751) (L. D. 1867) (H. "A" H-779; C. "A" H-771)

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

#### Orders of the Day

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

HOUSE ORDER — Relative to Amending House Rules.

Tabled — February 14, 1980 (Pursuant to House Rule §54)

Pending — Passage.

Thereupon, the Order received passage.

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

An Act Relating to Maine Educational Advisory Organizations (H. P. 1846) (L. D. 1756)

Tabled — February 14, 1980 by Mr. Connolly of Portland.

Pending — Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, I move the House suspend the rules for the purpose of reconsideration.

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

Mr. GARSOE: Mr. Speaker, I object.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Sabattus, Mr. LaPlante, that the House suspend the rules for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote; no.

A vote of the House was taken.

Mr. LaPlante of Sabattus requested a roll call.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Sabattus, Mr. LaPlante, that the rules be suspended for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote; no.

#### ROLL CALL

YEA — Bachrach, Baker, Barry, Benoit, Berube, Blodgett, Brenerman, Brodeur, Brown, A.; Brown, K. C.; Call, Carrier, Carroll, Carter, D.; Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dutremble, D.; Fowlie, Gwadosky, Hickey, Hobbins, Hughes, Jacques, P.; Jalbert, Kane, Kiesman, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, McHenry, McKean, McPherson, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paul, Pearson, Post, Pre-

scott, Reeves, P.; Simon, Theriault, Tierney, Tozier, Twitchell, Vincent, Violette, Vose, Wood, Wyman.

NAY — Aloupis, Austin, Beaulieu, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K. L.; Bunker, Carter, F.; Churchill, Conary, Cunningham, Damren, Dellert, Dexter, Drinkwater, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gowen, Gray, Hanson, Huber, Hunter, Hutchings, Immonen, Jackson, Lancaster, Leighton, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Martin, A.; Masterton, Masterton, Matthews, Maxwell, McSweeney, Morton, Nelson, A.; Paradis, E.; Payne, Peltier, Reeves, J.; Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Soulas, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

ABSENT — Berry, Birt, Brannigan, Chonko, Davis, Dow, Dudley, Elias, Hall, Higgins, Howe, Jacques, E.; Joyce, Kany, Kelleher, Leonard, McMahon, Paradis, P.; Peterson, Sprowl, Strout, Tuttle.

Yes, 61; No, 67; Absent, 22.

The SPEAKER: Sixty-one having voted in the affirmative and sixty-seven in the negative, with twenty-two being absent, the motion does not prevail.

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

Mrs. KANY: Mr. Speaker, Members of the House: Prior to the vote on enactment, I wish to pose a series of questions on the measure before us.

First of all, I would like to know the size of the Maine School Management Association. How many members are there?

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany, has posed a question through the Chair to anyone who may care to answer.

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

Mr. GARSOE: Mr. Speaker and Members of the House: If I interpret the question to be how many employees — there are seven full time and two part time employees in the Maine School Management Association. If it is the number of member school boards, I don't have that information.

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

Mrs. KANY: Mr. Speaker, I would like to pose another question through the Chair to anyone who may care to answer.

I am wondering if the funding of the Maine State Retirement system plan for the Maine School Management Association and the Maine School Boards Association could be explained to us.

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany, has posed another question through the Chair to anyone who may care to answer.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I am afraid that it can't be explained by me, but I do think you should know that the question of the plan under which Maine School Management employees are currently covered is completely irrelevant to the question before us here today, Maine School Management employees have been under the Maine State Retirement system since 1975 or 1976, I don't know which. They have come in under the local district auspices, such as the greater Portland Council of Governments, the MTA, the Maine Municipal Association and hundreds of others, but suffice it to say, the intent of this legislation, since these employees are covered by both Social Security and Maine State Retirement, is in response to requests by the employees and by management organizations to relieve themselves of Social Security. For Internal Revenue to allow the clock to begin running on this request, this designation is required.

I hope that answers all the questions.

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

Mrs. KANY: Mr. Speaker and Members of the House: I am wondering if there are any other privileges that will be gained from this particular legislation or any other wrongs that will be corrected. Is that all that would be accomplished by this legislation?

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany, has posed another question through the Chair to anyone who may care to answer.

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

Mr. GARSOE: Mr. Speaker and Members of the House: My sponsorship of this legislation was based on the premise that the prime motive was to enable Maine School Management, as I said, to start the cock running on a request to the Internal Revenue Service to relieve themselves from the Social Security plan.

There is language in the bill that refers to federal grants. I am not particularly familiar with the implications of that, but I do know that they are currently eligible to receive federal grants and I think you will find that that is perhaps stylized language that has been put in there as this device has been worded to accommodate the needs of the other organizations that I have referred to you. Principally, it is to get this organization on the road to relieving themselves of Social Security.

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

Mr. CONNOLLY: Mr. Speaker, Members of the House: Just to amplify a bit on the answer to that last question, if this were to pass, it would give the Maine School Management Association a little bit of a different status in terms of applying to federal grants. As I understand it right now in order to get a federal grant, they have to go through a member school board association organization and get the grant that way. If this bill were to pass, they would be able to apply directly for that grant, so it does change their status somewhat.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LAPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I am very surprised this morning that MSMA is able to divide the House on a partisan issue. I think that does give them a different status when we look at it at this time just through that fact.

May I speak to the purpose of my reason for reconsideration?

The SPEAKER: The Chair would advise the gentleman that that would; not be possible since the motion to suspend the rules did not prevail.

The Chair would note why he intends not to support the legislation, as to what is missing from the legislation but that would be as far as the gentleman go.

Mr. LAPLANTE: I thank you, Mr. Speaker.

The legislation at this time puts the Maine School Management Association in a very new position, giving them the right, of course, that they originally had to obtain membership from the local taxpayers, from school boards, which are paid by local taxpayers, and now they wish to receive federal funds and a legislative status in recognition.

The legislation is missing a point, that when this organization is able to receive federal funds, it is also capable of growing, growing and growing to the point where they are in a position, as many other association organizations who are in similar status, to place their membership in a hostage situation where they offer so many special services and raise their fees to a point where small local boards can no longer afford to belong to them. Also, because they have slowly worked themselves into the special services they are no longer able to revoke their membership to the organization because they have so much more to lose. At that point, an as-

sociation of this type may hold elected officials, who in the future will be elected and have no idea what position the former school board was placed in, they no longer can pull out of that association because of all these special services. To me, it would be a lot better in this legislation, if the association goes to a point where it does not service the small units, that the small units would pull out of the association and for a token sum belong and receive some of the special services.

I think anyone from rural communities, who are willing to allow their small school boards to become so attached to this association that they can never remove themselves from that situation, you are placing your own local community and your own local school board in a very precarious situation. I think you should give this a lot of thought because it is and can be very serious.

I really can't see this legislation passing as it is without some kind of safeguards for small school boards. I really think you should think about it a little more.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I regret very much that my good friend, the gentleman from Sabattus, Mr. LaPlante, has misinformed us today. This is not a partisan matter, that is the first wrong information that he shared with you. I have been here long enough to know that this corner has a great many duties to perform that from time to time cause lightning to strike down here and I make it a practice never to sponsor any legislation except rather routine, humdrum housekeeping affairs, which this is. That much for partisan division, that is not a factor in this discussion here this morning.

As to the grim picture he painted of your local school boards being roped in by an octopus and forever held in that class, I would just remind you of what I am sure every one of us is aware of, that these local school boards control Maine School Management. The Maine School Management is an organization that the Maine School Board Association has created to perform certain services for them. The dues are set by these local school boards as they meet in their annual sessions. I think his fears are way afield as to the hazard that we are exposed to.

I would just remind the gentleman and the members of this House that Maine Municipal Association, I don't ever remember that being attacked for similar operations, and these two organizations, Maine School Management and Maine Municipal, are parallel service organizations for our locally elected municipal officials, who I think are perfectly capable of managing the affairs of their associations. All they are asking us here this morning is to enable them to approach IRS and say, we want out of Social Security.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: while I understand that this particular bill amends Section 30, which is not the tax statutes, in taking a look at it, and I have a phone call in now to the Bureau of taxation, I am concerned about the potential as far as property tax status goes and whether or not by declaring the Maine School Management Association an instrumentality of the school units, which are presently tax exempt, this places them into a property tax exempt status, which I don't think they are now and we are checking on that, as to whether they are exempt under property tax exempt status, which I don't think they are now and we are checking on that, as to whether they are exempt under property tax statutes, which is not the same as IRS statutes. If that is true, that brings us into the constitutional question of a new exemption and whether or not there would have to be a price tag on this at some point.

By the number of people who stood up, we

may have time to get that answer, but I would ask, I guess, if the Maine School Management Association has present property tax exemption status.

The SPEAKER: The gentlewoman from Owls Head, Mrs. Post, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I don't know if I can answer the gentlelady's question; I don't know whether the Maine School Management has any property that they own. As I understand, they rent an office in the building down the street.

My feeling on this bill, having sat in the corner over here when the gentleman in the corner over there, Mr. Garsoe, comes before us with a routine humdrum bill, as he says, I take a very good look at it, and I took a very good look at this one.

The first thing that came to mind was, did this have anything to do with collective bargaining? I think I am satisfied that the answer is no. I have checked with the members of the Maine Teachers Association, who would certainly arise if they felt that the Maine School Management Association was getting any special advantage. The MTA has no objections to this bill.

As I understand it, the main reason, as we have been told, for this bill is that Maine School Management is under an IRS status of a 501C6 business organization, and because they are in that particular bracket that IRA put them in, they cannot get out of social security — I have heard a remark from the gentlelady over here that that is not true. As I understand it, if they were in a 501C3, they could get out, but because they are in a 501C6, according to the information we have received, they cannot get out of this status without legislation of this sort.

They are also not asking to become an instrument of the state but an instrumentality of the local members.

We on the Education Committee felt that this bill was worth passing. It was a unanimous report that came out of the committee, and I, for one, don't feel it is a partisan issue.

The question of group insurance has come up. They do have a program right now for group insurance and nobody did answer the gentlelady from Waterville when she asked how many people or how many school boards this association represents. I have been told that they represent about 95 percent of all the school boards in the state, and there are about 20 that don't belong.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: Because I got carried away with the gentleman's debate — that is not true — it is meant more as a question than as a fact. I would like to ask that question. Could the Maine School Management, like other organizations, after a two-year period, withdraw from social security? Does this bill just expedite the process?

The SPEAKER: The gentlewoman from Vassalboro, Mrs. Mitchell, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, the answer to that is no, they cannot. If they were a 501C3 organization, they could. But as I understand it, as a 501C6 organization, they cannot get out of it unless there is evidence of a state of local governmental relationship such as would be provided by this bill.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: Not to take a lot of time with this



issue, but I think some of the questions that have been raised today are illustrative of this bill.

It is true that the intention of the bill, as far as the sponsor was concerned, was to do just exactly as he said, but the bill, when it first was presented to the committee, had a statement of fact on the bill that bore no relationship at all to what the intention of the bill was as provided by the sponsor of the bill. Since the time the bill has come out of committee, yes, with a unanimous report, there has been a whole series of questions that have been raised about the bill. The latest question centered around insurance, and now Representative Post has raised questions about property tax exemption. That issue has not been raised at all up to this point, and it would seem to me that it would be wise if perhaps we voted against enactment at this time so that we might be able to, if not kill the bill, at least slow it down so that we can deal with the issues as they have been presented on the floor today.

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

Mr. GARSOE: Mr. Speaker and Members of the House: I am not sure this organization even owns a stick of furniture. This is not a property-holding organization, this is a service organization. Maine Municipal owns more property than these people will ever see. They have put up a building.

This is strictly a service organization with typewriters and desks and they rent space right across the street here. The question of their property tax exemption is really not a fitting reason to kill or delay this bill. But were they to own property, they would be exempt because, to my understanding, the listings designated by the gentleman, Representative Rolde, are exemptions that would make them property tax exempt should they ever get into that field. This is not different than Maine Municipal or any other of these parallel or similar type associations.

I would hope that this could have sweet passage here today and get it out of here.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: My concerns are with property tax exemptions and future liability of the state for reimbursement of property tax exemptions.

The statements that Representative Rolde read were federal income tax exemption status — that is federal income tax status, which do not necessarily relate to property tax exemptions or Maine State Sales Tax exemptions.

As I understand it, Maine School Management Association is asking for the same type of status that Maine Municipal Association presently has, and MMA's buildings are tax exempt. Maine School Management Association would be asking for that same type of status.

I don't know, and it is unclear from looking at the status, whether Maine School Management Association is presently exempt either from property taxes or sales taxes. My concern is, in fact, this puts them in that tax exempt status anytime they do purchase any buildings or anything else that is taxable, the state will have to reimburse the municipalities for 50 percent of the taxes lost. They may not own any property now; that is not my concern. My concern is if we are giving them a different property tax status than they have presently and what that means in terms of the constitutional amendment that we passed.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LAPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman from Cumberland, Mr. Garsoe, misrepresented who runs the MSMA. It appears that Maine school boards represent itself through MSMA. The Maine School Management Association is an umbrella organization for the Prin-

cipal Association, Superintendent Association and the Maine School Board Association.

The majority of the time, the information that they have is just given to superintendents, and if you look up here at many of the public hearings, superintendents have the time to come up and lobby for certain things that they really don't like their school association to do. School board members are too busy working and don't have the income or the travel expense that you will find superintendents have and many times they circumvent many ideas that the schools and legislators are trying to do for the benefit of students and citizens in the state.

I really think that probably the best thing that you could do with this bill is to table it, look at the amendment, take it back to your school boards and see if they would feel comfortable with this amendment and I am sure they would if you explained to them what it does. I think you would come back Tuesday with a very different idea of the bill and maybe a different idea on an amendment to the bill. Maybe that would be the best thing right now because there are a lot of questions, there are a lot of questions that haven't been answered at all and I really think you should poll your school boards over the weekend.

Mr. Garsoe of Cumberland was granted permission to speak a third time.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: One of the advantages of debate on the floor of this House, at times, is finally we get the real reason for opposition, and in light of Mr. LaPlante's recent remarks, it now seems that we are finding that Maine School Management, on behalf of the Superintendents Association and the Maine School Board Association, has had the temerity to come up here and oppose certain pieces of legislation. Maybe some of it was Mr. LaPlante's, I don't know; I heard that it was.

I am not worrying about tabling this bill for over the weekend. This bill will stand up on its own merits and I would like to have you talk about this amendment that is being proposed that we haven't been able to discuss.

I understand that members of the insurance business were lobbying this amendment to some of you over the phone last night. Let's take a good look at this. Let somebody table this and take a good look at it. Go back to your school boards that are going to be roped in over their heads and unable to struggle out of the clasp of this group and go back and see what they think of the proposal, see if it is as I presented it to you, a device to allow them to start the clock running on their efforts to remove themselves from Social Security. I guess we have to table this bill to clear away the cloud of misinformation that has been smoked up around it. I hope someone would table this. Maybe the gentleman from Portland would perform that.

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

Mr. CONNOLLY: Mr. Speaker, I don't think it is necessary to table the bill today. I think that we could simply do is to vote against enactment, let it go back to the other body, we would still have the same amount of time to deal with the issues, it will come back before us if it has any merit and we can deal with the issues at that time.

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

Mr. GARSOE: Mr. Speaker, I move that this item be tabled for one legislative day.

Mr. Connolly of Portland requested a division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the gentleman from Cumberland, Mr. Garsoe, that this item be tabled for one legislative day pending passage to be enacted. Those in favor will vote; those opposed will vote no.

A vote of the House was taken.

72 having voted in the affirmative and 20 in the negative, the motion does prevail.

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

Bill, "An Act to Create the Maine Spruce Budworm Management Act" (Emergency) (H. P. 1846)

(Committee on Energy and Natural Resources suggested)

Tabled—February 14, 1980 by Mrs. Mitchell of Vassalboro.

Pending—Reference.

On motion of Mr. Blodgett of Waldoboro, referred to the Committee on Appropriations and Financial Affairs, ordered printed, and sent up for concurrence.

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

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

Tabled—February 14, 1980 by Mr. Connolly of Portland.

Pending—Motion of the same gentleman to reconsider Failure of Passage to be Enacted.

On motion of Mr. Connolly of Portland, retabled pending his motion to reconsider and specially assigned for Wednesday, February 20.

#### Bill Held

Bill, "An Act to Develop Elderly Congregate Housing in Maine" (S. P. 724) (L. D. 1873) (H. "A" H-789 to C. "A" S-413) — In House, Passed to be Engrossed as amended by Committee Amendment "A" (S-413) as amended by House Amendment "A" (H-789) thereto in non-concurrence on February 14.

Held at the request of Mrs. Berube of Lewiston.

Mrs. Berube of Lewiston moved that the House reconsider its action whereby the Bill was passed to be engrossed as amended by House Amendment "A" thereto in non-concurrence.

Whereupon, Mrs. Prescott of Hampden requested a division.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, I would like to have this tabled for two legislative days.

Whereupon, Mrs. Prescott of Hampden requested a division.

The SPEAKER: The pending question is on the motion of the gentlewoman from Brunswick, Mrs. Martin, that this matter be tabled pending the motion of Mrs. Berube of Lewiston to reconsider and specially assigned for Wednesday, February 20. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

68 having voted in the affirmative and 24 having voted in the negative, the motion did prevail.

#### (Off Record Remarks)

On motion of Mr. Fenlason of Danforth, adjourned until Tuesday, February 19, at ten o'clock in the morning.