

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

Thursday, March 6, 1980

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

Prayer by Father Gilbert Patenaude of St. Francis Xavier Catholic Church, Winthrop.

Father PATENAUDE: Let us pray! Almighty and merciful God, whose wise and amiable providence watches over every human event, be our light this day. We pray thee to shower thy blessings upon our President, our Governor, the Representatives and all those who will have a part in this session of legislature. Grant them light, wisdom and strength, grant that they may be enlightened by thy grace and always fulfill their duty to thee and to their country.

O God, protector of all those who trust in thee, without whom nothing is strong, nothing is holy, multiply towards us thy mercies that with thee, as our ruler and guide, we may obtain all that is for our spiritual and material welfare through Christ, Our Lord. Amen.

The journal of yesterday was read and approved.

Papers from the Senate Reports of Committees

Ought to Pass in New Draft

Committee on Taxation on Bill "An Act Providing for Administrative Modifications to Property Tax Laws Administered by the Bureau of Taxation" (S. P. 414) (L. D. 1314) reporting "Ought to Pass" in New Draft (S. P. 779) (L. D. 1970)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the New Draft read once and assigned for second reading tomorrow.

Committee on Judiciary on Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S. P. 660) (L. D. 1703) reporting "Ought to Pass" in New Draft (S. P. 770) (L. D. 1964)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-426)

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

Senate Amendment "A" read and adopted in concurrence and the New Draft assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-427) on Bill "An Act to Amend the Health Facilities Information Disclosure Act" (Emergency) (S. P. 732) (L. D. 1912)

Report was signed by the following members:

Mr. CARPENTER of Aroostook
Mrs. GILL of Cumberland
— of the Senate.
Mrs. PRESCOTT of Hampden
Mr. NORRIS of Brewer
Mrs. MacBRIDE of Presque Isle
Mr. BRODEUR of Auburn
Mrs. CURTIS of Milbridge
Messrs. BRENERMAN of Portland
CLOUTIER of South Portland
MATTHEWS of Caribou

— of the House.

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

Report was signed by the following members:

Mr. HICHENS of York
Mrs. PAYNE of Portland

— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-427)

On motion of Mrs. Prescott of Hampden, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "B" (S-427) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Non-concurrent Matter

Bill "An Act Combining the Offices of Justice of the Peace and Notary Public and to Establish their Appointment by the Secretary of State" (H. P. 1718) (L. D. 1829) which was passed to be engrossed as amended by Committee Amendment "A" (H-798) and House Amendment "A" (H-808) in the House on March 3, 1980.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

In the House:

Mrs. Kany of Waterville moved that the House Insist.

Whereupon, Mr. Rollins of Dixfield moved that the House recede and concur.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Dixfield, Mr. Rollins, 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, Mrs. Kany of Waterville requested a roll call vote.

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

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

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

Mrs. KANY: Mr. Speaker and Members of the House: I hope that you vote against the recede and concur motion and then choose to vote insist. The reason I ask you to do that is that I think in the debate you heard that really justices of the peace are no longer needed, they are just long outworn appendages.

I personally have a lot of sympathy with the Audit and Program Review Committee and their courageous work in trying to get rid of things that the state does not need. And I can understand a little sentimental viewpoint on wanting to keep justices of the peace, I am one, too, and many of us here are, but I would hope that we would certainly set an example here in the legislature on getting rid of something, even though we may have a specific interest in retaining it ourselves, if it is no longer needed.

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

Mr. ROLLINS: Mr. Speaker, with only 13 more days left, I think we have more important business than to work on this bill.

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

Mr. CALL: Mr. Speaker and Members of the House: I feel that this is a bill which never should have appeared before us. I think it is a bad bill and that we should defeat it.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I am the cosponsor of this bill and I haven't said anything about it up until now.

Mrs. Kany is absolutely right. It is very difficult to get rid of things that have been in place forever. However, I am not sure everyone understands this. This is really very simple. You are still going to continue to retain the func-

tions of a JP, that is not going to change. You will just have a new name, and your name will be 'notary public'. You will still be able to register people to vote, just like we always do, that will not change, and you will not need to buy a seal to do that. However, if you want to carry out the functions that a notary public carries out now under the law, then you will have to buy a seal. You are just going to have a different name. You are still going to be able to do the same thing as the JP.

Representative Masterton has just tried to streamline government a little and combine an office. So, I hope you will go along with the motion to insist.

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker and Members of the House: We have had quite an extended debate on this bill and I don't, at this time, want to go back over the reasons why it is a good idea to abolish this office, but I do want to remind those on the floor that I believe, Mr. Speaker, that we are having a roll call on the motion to recede and concur with the Senate, which defeated the bill by only two votes yesterday. So my hopes are high that if we can be successful today by voting on the insist motion, we can have a little luck with the other body.

I ask you to vote against this motion so that you can vote for the insist motion.

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

ROLL CALL

YEA—Bachrach, Blodgett, Boudreau, Brown, A.; Brown, D.; Bunker, Call, Carrier, Carter, F.; Churchill, Cloutier, Connolly, Cox, Curtis, Damren, Davis, Dexter, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Garsoe, Gillis, Gray, Gwadosky, Hall, Higgins, Hunter, Immonen, Jackson, Jalbert, Kelleher, Kiesman, Lancaster, Leighton, Lizotte, Locke, Lougee, Martin, A.; Masterman, Matthews, Maxwell, McKean, McPherson, Nelson, A.; Payne, Pearson, Peltier, Peterson, Prescott, Reeves, J.; Rollins, Roope, Sherburne, Smith, Sprowl, Stetson, Stover, Studley, Torrey, Tozier, Twitchell, Vose, Wood.

NAY—Aloupis, Barry, Beaulieu, Benoit, Berube, Birt, Bowden, Brannigan, Brodeur, Brown, K.L.; Brown, K.C.; Carroll, Carter, D.; Chonko, Cunningham, Davies, Dellert, Dow, Gavett, Gowen, Hickey, Howe, Huber, Hutchings, Joyce, Kany, Lewis, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Masterton, McHenry, McSweeney, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Paul, Reeves, P.; Rolde, Sewall, Simon, Tarbell, Theriault, Tierney, Tuttle, Vincent, Violette, Wentworth, Whittemore, The Speaker.

ABSENT—Austin, Baker, Berry, Brenerman, Conary, Diamond, Doukas, Dudley, Hanson, Hobbins, Hughes, Jacques, E.; Jacques, P.; Kane, Laffin, LaPlante, Leonard, McMahon, Michael, Post, Silsby, Small, Soulas, Strout, Wyman.

Yes, 68; No, 58; Absent, 25.

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

Non-Concurrent Matter Tabled and Assigned

Bill "An Act to Appropriate Money for the Maine Energy Resources Development Fund and to Permit the use of Those Funds for Demonstration Projects" (H. P. 1713) (L. D. 1819) on which the Minority "Ought to Pass" as amended Report of the Committee on Energy and Natural Resources was read and accepted and the Bill passed to be engrossed as amended

by Committee Amendment "A" (H-811) in the House on March 4, 1980.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Energy and Natural Resources read and accepted in non-concurrence.

In the House: On motion of Mr. Blodgett of Waldoboro, tabled pending further consideration and specially assigned for Monday, March 10.

Petitions, Bills and Resolves Requiring Reference

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

Judiciary

Bill "An Act to Clarify the Law Concerning Abuse Between Family or Household Members" (H. P. 1911) (Presented by Mr. Morton of Farmington) (Cosponsors: Mrs. Mitchell of Vassalboro, Mrs. Sewall of Newcastle and Mr. Hobbins of Saco) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith.

The following paper appearing on Supplement No. 1 was taken up out of order by unanimous consent:

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

Energy and Natural Resources

Bill "An Act Adopting the Voluntary Energy Efficiency Building Performance Standards" (H. P. 1913) (L. D. 1978) (Presented by Mrs. Huber of Falmouth) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith.

Orders

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Harold L. Hanson of Kennebunkport be excused March 3, 1980 and for the duration of his illness.

Special Sentiment Calendar

In accordance with House Rule 56, the following item (Expression of Legislative Sentiment) Recognizing,

Kevin White of Winthrop, son of Mr. and Mrs. Leon White, who has achieved the high rank and distinction of Eagle Scout; (S. P. 781)

There being no objections, this Expression of Legislative Sentiment is considered passed.

House Reports of Committees Ought Not to Pass

Mr. Masterman from the Committee on Fisheries and Wildlife on Bill "An Act to Create a Harvest Fee for Big Game" (H. P. 1839) (L. D. 1943) reporting "Ought Not to Pass"

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

Leave to Withdraw

Mr. Silsby from the Committee on Judiciary on Bill "An Act to Allow Reasonable Attorneys' Fees as a Remedy in an Action under the Maine Human Rights Act" (H. P. 1746) (L. D. 1862) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

Mr. Simon from the Committee on Judiciary on Bill "An Act Establishing a News Media Privilege" (H. P. 1810) (L. D. 1924) reporting "Leave to Withdraw"

Report was read.

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

Mr. SIMON: Mr. Speaker and Members of the House: Yesterday, you announced that there were approximately a hundred bills still

in committee with only 13 days left in the session. I learned, as well, that there were six bills before the Judiciary Committee that had not yet been heard.

Although there is at least one member of the committee who opposes professional, occupational testimonial privileges in principle, there were also several members who were prepared to send this bill out "Ought to Pass".

As the sponsor of the bill and as a member of the committee, however, I thought that given the circumstances that the House faces and that the committee faces, we didn't have time to finish our work on the news media privilege bill; therefore, I proposed a "leave to withdraw" report.

I can assure you that the issue is under discussion by members of the committee and others, and I would predict that it will be back. I thank the Legislative Council for the opportunity of raising this issue in the second regular session. I think you will be seeing it come back in later and more leisurely session.

Thereupon, the Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought Not to Pass" on Bill "An Act to Encourage Retirement of Wardens in the Department of Inland Fisheries and Wildlife" (H. P. 1831) (L. D. 1935)

Report was signed by the following members:

Messrs. LOVELL of York

TEAGUE of Somerset

— of the Senate.

Mrs. NELSON of Portland

Messrs. PAUL of Sanford

REEVES of Newport

STUDLEY of Berwick

LOWE of Winterport

DELLERT of Gardiner

HANSON of Kennebunkport

HICKEY of Augusta

THERIAULT of Rumford

— of the House.

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

Report was signed by the following members:

Mr. SILVERMAN of Washington

— of the Senate.

Mr. CHURCHILL of Orland

— of the House.

Reports were read.

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

Mrs. NELSON: Mr. Speaker, I move that we accept the Majority "Ought Not to Pass" Report and I would like to speak to my motion.

The SPEAKER: The gentleman from Portland, Mrs. Nelson, moves that the House accept the Majority "Ought Not to Pass" Report.

The gentleman may proceed.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I am in great sympathy with the Department of Fisheries and Wildlife; however, under the circumstances, having simply glanced through, if you have simply glanced through this joint select committee study on the Maine State Retirement, I cannot believe in good conscience how anyone could vote for the early retirement of these men, and I quote directly from this report.

"The major benefit deficiencies exist in the system because they are overly generous, such as early retirement features." How can you possibly put the burden of retiring these wardens on the back of a system at this point that seems to be critically ill — I don't mean to say critically ill — it is in trouble.

I don't wish to belabor this point. The majority of the committee who felt that since they were the conscience of the retirement system as it exists now cannot in good conscience

allow this to happen to our system, I hope that you will vote for the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: I have got to clarify a couple of things, and I can tell by the signatures on this report that it isn't going anywhere, but it is a bill that came out of the joint select committee that studied the finances of the Fisheries and Wildlife, and to answer one of the statements that was just made by the chairman of this committee, this is not early retirement. These wardens can retire now. The only thing it does is give them a little initiative to retire at this time, so it is not early retirement. There are 14 in the warden service that could retire at present; nine of them are making noise like if this was passed they would or if this doesn't pass, they will stay the next two years so that they will get the highest average of the three years. This would make a net savings of approximately \$360,000 a year to the department and would not cost the retirement system anything, as the Fish and Game Department would be paying the difference in the retirement system.

I think it is a logical way to go, and if you have any questions, I would be glad to answer them.

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: The reason I signed this bill out, it is really the only up-front money that can be saved by the Fisheries and Wildlife Department at the present time, and this would happen within 60 days. This bill is a resolve, and I understand it, and it is only good for 60 days. They have to take advantage of this.

It costs the Fisheries and Wildlife Department up to \$35,000 a year to keep these men in the field. This would be a considerable savings. This figure I quoted is for lieutenants.

Also, some people use the reasoning that they shouldn't retire these few select people. Well, these people have anywhere from 20 to 29 years of active service. If this were to apply to other state employees, it really wouldn't be financially advisable for them to take early retirement, for the simple reason that a game warden or a law enforcement person, a state trooper or sea and shore warden can retire after 20 years' service. If he was lucky enough to go to work at the age of 21, at 41 this man could retire at half salary. Whereas, other state employees would have to remain until they are age 60 or they would lose money, and I will try to explain that.

I understand that the wardens gain 2 percent each year past 20 years' time that they have in. So if they remain for another 20 years beyond their retirement age, they would gain another 40 percent on their retirement. Whereas, a state employee, if he retired at the end of 20 years and he wasn't 60 years of age, he loses 2½ percent for every year prior to the age of 60. So, if a man at age 40 retired with 20 years' time as a state employee, he would lose 30 percent of his retirement, so he would wind up with only about 20 percent of his salary when he retired.

This gives them their last highest year instead of the three highest years. Many of these will retire next year or the year after or the year after that, but it only applies to the law enforcement people. There are four people if you extend it to the Marine Resources. There are only four people in Marine Resources that would be eligible to retire under this legislation, and this is the only up-front saving for the Fisheries and Wildlife Department, so I wish you would consider it. I know it is kind of a futile effort here, but it is the only thing that would save them money right up front at the present time.

The SPEAKER: The Chair recognizes the

gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I have listened to this debate with a good deal of interest and I understand that if this bill were passed, the people that they want to eliminate would be able to retire on the basis of their last year's salary, not their last three. Well, it seems to tell me something, that if these people aren't needed and you are trying to have fewer people in the department by giving them early retirement, I wonder if the committee has considered the possibility of simply eliminating the positions? If they are not needed and you want them to retire and they are eligible to retire, then why not eliminate the position and tell them to retire?

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker, I will try to answer that. Of course we considered the fact that if they weren't needed, retire them. The problem is, if we eliminate the jobs, and most of these are the high paying jobs, the lieutenants and the sergeants, then we don't have any place to go, we don't have anybody to fill the position because the position isn't there anymore and we need the position. So, what this is doing is eliminating the people that are filling these jobs. There will be people coming in to take their place, only a couple of jobs will not be filled, and then the new ones will not be hired, so it is on the other end. If we eliminate some positions, it is always on the low end that we lose these people, the ones that are doing most of the work, instead of doing it the other way around. So, this is in answer to that, actually, so we can retire these and make some promotions to fill the positions that we need on the top and then not add to the ones on the bottom.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: It has been some time since I have been on the Fisheries and Wildlife Committee and I have forgotten, perhaps, but looking at the way we do positions in the General Fund, you can eliminate positions at the top and not affect the positions at the bottom. I am saying, if these people are highly paid, supervisory positions that are no longer needed, can't you eliminate those positions at the top without affecting the wardens in the field?

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: I am saying that we don't want to eliminate the positions on the top.

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: It is impossible, what the good gentleman from Old Town, Mr. Pearson, has stated, there is a union now, they all belong to the union. It isn't like it used to be, you just can't eliminate a slot. You can eliminate the slot but with seniority they are just going to bump back. The lieutenant is going back to a sergeant, the sergeant is going back into the field or wherever it might be, but he is going to bump back down and you are still going to eliminate the bottom men, the most active men, the young men, the people who are out front there doing the work, and the people that are the best public relations the department has are those men in the field. It isn't the man sitting down here in the office, a lieutenant at headquarters scattered around the state answering the telephone and giving out orders to the men in the field.

Of course, if I had anything to do with it, I would eliminate a lot of them, but I guess I would be going against the MSEA.

They will eliminate some eventually. They have been working on a reorganization for several years, but on account of these senior men, it is almost impossible to do that. That is why they would like to give them some inducement

to retire rather than to bump all the way back down through.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to some of these questions, they say that these people that would be retired at this time, it would be to their advantage. I would think it would be because they would get 18 percent more on their retirement if it was figured out on their final year's service rather than on three average years. That is one of the things.

Another thing is, of course, these people that are going to be retired, as it was said, are only the top brass.

Really, in all the time that I have been working on the Retirement Committee, there was always a question in my mind about giving these people the law enforcement identification that we do with the people in the field. These people are sitting at their desks in their ivory towers, actually, and we are making their retirement pay the same as for the guy who is out there in the field on a dangerous job and I don't think that is right myself, but that is beside the point.

I will go right into what I wanted to say in the first place. The bill itself is discriminatory. It can be used only by a limited number of wardens. I believe there would be 14 members eligible but only 9 would take advantage of this plan.

This bill would set a precedent. Any department getting into a financial bind would immediately ask for this same benefit. If this bill is passed, how could you refuse any other department the same favors? By the way, this would be the state police, other law enforcement divisions, the liquor inspectors and so forth.

In my opinion, this is a foot in the door, a beginning of going back to the old final year of compensation plan. Actually, is this not a way of circumventing the compulsory retirement law?

As it was shown at the hearing, these benefits are only for a favored few. It does not extend to all employees of the Fisheries and Wildlife Department, only to the law enforcement personnel. Even in that division, what about these employees who would not have the necessary time or the needed age until the day after or the week after or the month after the cloture date on this bill, which is only supposed to be effective for sixty days after it becomes law? Isn't it kind of unfair to them? How about those people who have retired in the past year, never dreaming a change was possible giving them up to 18 percent more retirement pay if they had waited?

It was a long, tough job in the 107th when the revisions were made in the retirement system to change the manner of retirement pay for the final year of compensation to the last three years' average compensation. One of the benefits accorded at that time as a requisite for granting this was a 2 percent additional added to the final retirement compensation for each additional year worked under normal time of retirement. Another added benefit was the disability retirement compensation. It is now two-thirds pay and pays whether the disability happened on or off the job. Yes, we had a rough time passing these revisions. Those of you who were in the 107th may well remember. These revisions for me were my baptism of legislative battle under fire.

Let this bill go through and we are opening the door for return to the old system. You can bet that once passed we would have plenty more requests from other departments or sections of employees wanting the same deal. This would be a good way for any department to get rid of unwanted personnel because, as I said before, this would be circumventing the compulsory retirement. You may not feel that is so, but think about it, it is like waving a carrot in front of a rabbit. The employee may not want

to retire but would not dare pass up this kind of a deal.

For these reasons, I hope you will go with the "Ought Not to Pass" Report.

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

Mrs. MARTIN: Mr. Speaker, I would like to pose a couple of questions through the Chair. I heard the answers but I want everybody else to hear them.

Is it true that these men are going to retire at full pay? Is it true that it is going to cost the state \$43,000 a year just for these few men to retire?

The SPEAKER: The gentleman from Brunswick, Mrs. Martin, has posed a series of questions through the Chair to anyone who may care to respond.

The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: The answer to both questions is 'no'. It is going to cost the department \$34,000 for the early retirement of all the wardens, if the 14 retire, and for the retirement of each warden, it depends on how many years they had over the 20 years with this 2 percent added on. So, it wouldn't be the same for all and all of them can retire today, so it doesn't make any difference except that they are taking that last year instead of the average three years.

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

Mrs. MARTIN: Mr. Speaker, I would like to pose a question through the Chair. What is the money? I would like to know what they are retiring at? I asked a question and I want an answer.

The SPEAKER: The gentleman from Brunswick, Mrs. Martin, has posed a question through the Chair to anyone who may care to respond.

The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mrs. Martin's question, on an average, it would be one-half pay and some of these wardens could be up to \$280 in retirement. I think today we have heard the words of wisdom once again from Mr. Theriault. This is a bad bill. The public relations involved, it would be very bad for the Fisheries and Wildlife, I think.

Mr. Blodgett, the Executive Director of the Maine Retirement System, says that the trustees would look unfavorably on this inequitable suggestion, especially since the Department of Transportation is in financial straits similar to the Fisheries and Wildlife and eligible people might start lining up, as Mr. Theriault says, for the benefits like these wardens would reap. This is so highly discriminatory that I am violently opposed to it.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Portland, Mrs. Nelson, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

97 having voted in the affirmative and 9 in the negative, the motion did prevail.

Sent up for concurrence.

Consent Calendar First Day

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

(H. P. 1754) (L. D. 1881) Bill "An Act to Appropriate Funds for an Increase in Board Rates for Foster Parents and Clothing Allowances for Children under the Care or Custody of the Department of Human Services" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-837)

(H. P. 1680) (L. D. 1789) Bill "An Act to Expand the State's Tourism Promotion Effort" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-836)

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 7, 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. 1653) (L. D. 1762) Bill "An Act Broadening the Elderly Tax and Rent Refund Act to Include Persons who are Currently Married as well as Unmarried under the Eligibility Standards" (C. "A" H-832)

(H. P. 1739) (L. D. 1857) Bill "An Act to Permit the Public Utilities Commission to Include in the Fuel Adjustment Clause Capacity Purchase from Small Power Procedures and Cogenerators" (C. "A" H-834)

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.

Bill, "An Act Relating to Bonds and Notes Issued by Sanitary Districts" (H. P. 1588) (L. D. 1808)

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

Amended Bill

Bill "An Act to Clarify the Law Concerning Income Taxation of Servicemen who are Maine Residents" (H. P. 1749) (L. D. 1865) (C. "A" H-833)

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

Passed to Be Enacted Emergency Measure

An Act to Constitute and Validate the Establishment of the Monson Utilities District (H. P. 1798) (L. D. 1920)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

Emergency Measure

An Act Relating to the Powers of Hospital Administrative District No. 1 in Penobscot County (H. P. 1818) (L. D. 1946) (C. "A" H-803)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

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

Bill, "An Act to Clarify the Provisions Relating to Executive Conflict of Interest and to Establish Financial Disclosure Requirements for Policymaking Executive Employees" (H. P. 1774) (L. D. 1877) (C. "A" H-817)

Tabled—March 5, 1980 by Mr. Rolde of York. Pending—Passage to be Engrossed. On motion of Mrs. Kany of Waterville, the

House reconsidered its action whereby Committee Amendment "A" was adopted.

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

House Amendment "B" to Committee Amendment "A" (H-840) was read by the Clerk.

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

Mrs. KANY: Mr. Speaker and Members of the House: I mentioned yesterday that a number of people were getting together to try to resolve some conflicts in the legislature on what an ideal conflict of interest for the executive branch would be. Basically, I must say that this was at the instigation of Representative Mitchell and I, for one, appreciate her initiating this action.

We ended up with the drafting committee and, first of all, I would like to tell you who was on this drafting committee, because I don't know if you will believe it, but Representative Lund, Senator Collins, Representative Hughes, Representative Davies, Representative Rolde and I sat down and in a brief period of time drafted some language which was very satisfactory to all of us.

Some people, as you noticed from the debate the other day, were concerned with either a real or perceived potential breach of the public trust by former partners particularly acting before their former partner in a matter which involved the public trust. With that in mind and then keeping certain principles in mind that were dear to me, among others, and that is focusing strictly on the person to whom we have given that public trust statutorily, that we came up with House Amendment "B" which is on your desks now. We also defined more properly, perhaps, equivalent of a partner, and we are talking also about including fellow shareholders in a professional service corporation, that would be the professional associations which we referred to the other day, so that when any person with whom he has been associated as a partner or a fellow shareholder in a professional service corporation, pursuant to Title 13, Chapter 22, during the preceding year, comes before his former partner or fellow shareholder, that present employee of the state must really refrain from participating substantially in that proceeding.

We are all very satisfied with this amendment, and I hope that you will allow its passage, too.

The second thing that we did in the amendment was just refer to the criminal code violations which were talked about the other day, including bribery in official and political matters, improper influence, improper compensation for past action, improper gifts to public servants and improper compensation for services and purchase of public office and official oppression and misuse of information. We just have a reference to that citation within the criminal code so that people will know that there are serious crimes in this area, and for those who want to look at the conflict of interest statutes as a whole, they can refer themselves to this.

I do think it was really good-faith bargaining, not real bargaining but agreement, on certain principles, and I hope you will go along with this effort.

By the way, there will not be a criminal violation for that particular office holder or state employee from participating but the \$1,000 civil penalty which we had for the other such parties.

Thereupon, House Amendment "B" to Committee Amendment "A" was adopted.

Mr. Rolde of York offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-839) was read by the Clerk.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: This is a very simple amendment.

The other day when we discussed this bill, I expressed some of my skepticism about the disclosure provisions that were in the bill as it was. I was told that the disclosure was being extended to all members of the executive branch who were decision makers. However, the bill, as printed, left out the most important decision maker in the state, and that was the Governor. This amendment would exclude the Governor from the list of executive employees who were exempt from having to fill out financial disclosure forms.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" and House Amendment "B" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendments "A" and "B" thereto and sent up for concurrence.

Order Out of Order

An Expression of Legislative Sentiment (H. P. 1912) recognizing that:

Medomak Valley High School Basketball Team, Coached by Arthur Dyer, winner of the Boys' Class B State Championship.

Presented by Mr. Blodgett of Waldoboro. (Cosponsor: Mrs. Post of Owl's Head)

The Order was received out of order by unanimous consent and read.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: As the Representative from the area of the team that was defeated by the Medomak team, and the school that I attended myself when I was in high school, I want to extend personal congratulations to a very fine team for an excellent ballgame. They have got an excellent team and I really enjoyed it.

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

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Elias.

Mr. ELIAS: Mr. Speaker, I move the House reconsider its action of earlier in the day whereby it voted to recede and concur on Bill "An Act Combining the Offices of Justice of the Peace and Notary Public and to Establish their Appointment by the Secretary of State," House Paper 1718, L. D. 1829.

The SPEAKER: The gentleman from Madison, Mr. Elias, moves that we reconsider our action whereby we voted to recede and concur on non-concurrent matter, L. D. 1829.

The gentleman may proceed.

Mr. ELIAS: Mr. Speaker, Ladies and Gentlemen of the House: In looking the bill over a little closer, I have just one question and that question would be, if this bill passed, would this affect a dedimus justice? If it doesn't affect the dedimus justice, it is my understanding that what will happen is, when your term as justice of the peace expires, then you will be issued a renewal form but it will be for a notary public. I also understand that justices of the peace and notaries public about the same office. So, if it doesn't affect dedimus justice at all, I voted on the prevailing side, I would change my vote and vote for the bill.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question regarding a dedimus justice is 'no', Representative Elias, this does not affect a dedimus justice.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: If this bill had been worked a little bit differently, I certainly would have voted for it. What it should have been was to take out the notaries and make them all justices of the peace.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Madison, Mr. Elias, that the House reconsider its action of earlier in the day whereby it voted to recede and concur on L. D. 1829. All those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Peterson of Caribou requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Madison, Mr. Elias, that the House reconsider its action of earlier in the day whereby it voted to recede and concur on L. D. 1829. All those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Bowden, Brannigan, Brennerman, Brodeur, Brown, K.L.; Brown, K.C.; Carter, D.; Chonko, Cloutier, Conary, Connolly, Cunningham, Davies, Dellert, Dow, Elias, Gavett, Gowen, Gwadosky, Hickey, Hobbins, Howe, Huber, Hughes, Hutchings, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, LaPlante, Leighton, Lewis, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Masterton, McHenry, McMahon, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Peltier, Sewall, Simon, Small, Stover, Tarbell, Theriault, Tierney, Tuttle, Vincent, Violette, Wentworth, Whittemore, The Speaker.

NAY — Austin, Bachrach, Bordeaux, Boudreau, Brown, A.; Brown, D.; Call, Carrier, Carter, F.; Churchill, Cox, Curtis, Damren, Davis, Dexter, Drinkwater, Dudley, Dutremble, D.; Dutremble L.; Fenlason, Fillmore, Fowlie, Gillis, Gray, Hall, Higgins, Hunter, Immonen, Jackson, Jalbert, Kelleher, Kiesman, Lancaster, Leonard, Lougee, Marshall, Martin, A.; Masterman, Matthews, McKean, McPherson, Nelson, A.; Paul, Payne, Pearson, Peterson, Post, Reeves, J.; Rollins, Roope, Sherburne, Smith, Soulas, Sprowl, Stetson, Studley, Torrey, Tozier, Twitchell, Vose, Wood, Wyman.

ABSENT — Baker, Berry, Bunker, Carroll, Diamond, Doukas, Garsoe, Hanson, Laffin, Maxwell, McSweeney, Prescott, Reeves, P.; Rolde, Silsby, Strout.

Yes, 73; No, 62; Absent, 16.

The SPEAKER: Seventy-three having voted in the affirmative and sixty-two in the negative, with sixteen being absent, the motion does prevail.

The Chair recognizes the gentlewoman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, Men and Women of the House: I think we just made a good move a while ago, and I don't understand why everybody has rescinded it. I think there are many people who would like to be a JP but will not choose to be a notary and we will reduce the number of people that we have available to help people vote on election day and any other function of that kind, register voters and that sort of thing, and I think people really perceive this as a separate function in that regard. You will not have as many people available to do the job if you do not recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker and Members of the House: I have not spoken on this bill before. It is certainly not an earth-shaking bill but it is an important bill. I think it is important because it is a function of government to keep itself toned up to avoid ancient distinctions that no longer have meaning, which are inefficient, which people can't understand, and this is one of those examples.

We don't any longer have a justice of the peace who performs the ancient functions of that role, we have two offices exactly alike and there is simply no reason to continue both of them. The justice of the peace is by far the one of the two offices which has the smallest number of people seeking that office and, therefore, it makes sense to combine them into the office of notary public.

You have here a good bill, well thought out. The sponsor has done a very good job of doing the leg work on this kind of thing. Again, it is not earth shaking but people of Maine deserve efficient government that is up to date and this is a kind of bill that would give them that kind of government.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: One brief point, I appreciate the attachment to justices of the peace and if it had really been possible to abolish the notary and had merged everything into the justices of the peace in this state, I think if the committee had done that, we would have done that with the bill. However, the reason that a notary public has to be retained with the seal powers to be attached to documents is that any documents that go outside of the State of Maine to other countries or other states throughout our country have to be notary publics, so it made it impossible to merge the notaries into JP's and have everyone JP's and that is the reason the other was done.

So, I hope you will support this measure behind the notaries public.

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

Mrs. BACHRACH: Mr. Speaker, Men and Women of the House: I don't understand this passion for being tidy. It is not going to save any money. If it were, that would be one thing, but it is not going to save any money and it is a nice old custom and I hope you don't abolish it.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I think, as Representative Hughes has said, there are really two things involved. One is reform itself and the other is this reform. I think the sponsor and the committee has done a good job in making this reform well thought out, well done, that this small issue is well done.

I think the other issue of reform itself is important. It does take a lot of work to bring about a bill as well thought out and planned as this and people are just not going to do it. They are not going to do this kind of work just for the sake of sentiment, just for the sake of having something that is held and feels good is going to stand in the way of that reform.

So, I encourage defeat of the recede and concur motion so we can vote in favor of this bill.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Dixfield, Mr. Rollins, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

61 having voted in the affirmative and 70 in the negative, the motion does not prevail.

Thereupon, the House voted to insist. Sent up for concurrence.

By unanimous consent, ordered sent forth-

with to the Senate.

(Off Record Remarks)

On motion of Mr. Brown of Mexico, adjourned until twelve o'clock noon tomorrow.