

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Friday, April 11, 1975

The House met according to adjournment and was called to order by the Speaker. Prayer by Rabbi Norman Geller of Auburn.

The journal of yesterday was read and approved.

(Off Record Remarks)

Papers from the Senate

Bills and Resolve from the Senate requiring reference were disposed of in concurrence.

Reports of Committees Ought Not to Pass

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Resolve, to Reimburse Norman Salisbury of Amherst for Economic Loss to his Business Caused by Highway Repair (S. P. 312) (L. D. 1060)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Social Security Benefits to State Employees" (S. P. 238) (L. D. 816)

Report of the Committee on State Government reporting "Ought Not to Pass" on Resolution, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors (S. P. 3) (L. D. 3)

Were placed in the Legislative Files without further action, pursuant to Joint Rule 17-A in concurrence.

Leave to Withdraw

Committee on Appropriations and Financial Affairs reporting Leave to Withdraw on Bill "An Act Appropriating Funds for Additional Construction Costs of International Arrivals Building at Bangor International Airport" (S. P. 129) (L. D. 415)

Committee on Appropriations and Financial Affairs reporting same on Bill "An Act Appropriating Funds for the Expansion of Portland International Jetport" (S. P. 187) (L. D. 621)

Committee on Appropriations and Financial Affairs reporting same on Bill "An Act Appropriating Funds for Improvements at Northern Maine Regional Airport at Presque Isle" (S. P. 274) (L. D. 898)

Came from the Senate read and accepted.

In the House, the Reports were read and accepted in concurrence.

Non-Concurrent Matter

Bill "An Act Relating to Pulmonary and Cardiac Diseases under the Workmen's Compensation Act" (H. P. 230) (L. D. 286) which was passed to be engrossed as amended by Committee Amendment "A" (H-85) in the House on March 19.

Came from the Senate passed to be engrossed as amended by Senate Amendment "B" (S-47) as amended by Senate Amendment "A" (S-49) thereto in non-concurrence.

In the House: On motion of Mr. Cote of Lewiston, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Concerning the Municipal Valuation Appeals Board and Procedures for Municipal Appeals" (H. P. 1015) (L. D. 1520) which was referred to the Committee on State Government in the House on

March 26.

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

In the House: Mr. Cooney of Sabattus moved the House insist.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater Mr. Finemore.

Mr. FINEMORE: Mr. Speaker and Members of the House: I have gone all over this bill. I am not going to argue with the gentleman from Sabattus, Mr. Cooney. I have studied the bill and I think it should go to Taxation, but I am not going to argue. I will move that we recede and concur.

On motion of Mr. Cooney of Sabattus, tabled pending the motion of Mr. Finemore of Bridgewater that the House recede and concur and specially assigned for Monday, April 14.

Petitions, Bills and Resolves Requiring Reference

The following Bill and Resolve were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Legal Affairs

Resolve to Reimburse Briana Hinkley of Wilton for Injuries Received in the State Forestry Building at Weld (H. P. 1481) (Presented by Mr. Rollins of Dixfield) (Approved for introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Rule 10)

(Ordered Printed)
Sent up for concurrence.

Bill "An Act Amending Chapter 6 of the Private and Special Laws of 1975, Relating to the Borrowing Capacity of School Administrative District No. 19" (H. P. 1484) (L. D. 1682) (Presented by Mr. Mills of Eastport) (Approved for introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Rule 10)

Under suspension of the rules, without reference to any committee, the bill was given its first reading. Under further suspension of the rules, the Bill was read the second time, passed to be engrossed and sent to the Senate.

By unanimous consent, ordered sent forthwith.

Orders

On motion of Mr. Albert of Limestone, it was

ORDERED, that Thomas M. Teague of Fairfield be excused April 11, 14, 15, and 16 for personal reasons, and be it further

ORDERED, that Wayne C. Gray of Rockland be excused April 14 and 15 for personal reasons.

Mr. Talbot of Portland presented the following Joint Resolution and moved its adoption: (H. P. 1490) (Approved for introduction by a majority of the Committee on Reference of Bills)

JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO EXTEND THE VOTING RIGHTS ACT OF 1965 FOR 10 ADDITIONAL YEARS

We, your Memorialists, the House of Representatives and Senate of the State of Maine of the One Hundred and Seventh Legislative Session assembled, most respectfully present and petition the United States Congress, as follows:

WHEREAS, the 1965 Voting Rights Act is one of the most significant pieces of civil rights legislation ever enacted; and

WHEREAS, the Voting Rights Act is a

complex piece of legislation that was developed in response to the failure of earlier legislation to remedy discrimination in voting, and is designed to enable minority citizens to gain access to the political process and to gain the influence that participation brings; and

WHEREAS, its passage and enforcement have been responsible for substantial increases in the number of blacks registered, voting and elected to office in the seven southern states covered by the Act; and

WHEREAS, the Voting Rights Act Amendment of 1970 continues the special coverage provisions which reach into every corner of the United States; and

WHEREAS, the United States Commission on Civil Rights, in its January, 1975 evaluation of the current status on minority rights in jurisdictions covered under the Voting Rights Act of 1965 as amended in 1970, concluded that there is still hostility and resistance to the free and effective political participation of blacks, native Americans, Puerto Ricans and Mexican-Americans; and

WHEREAS, a democratic system depends on the full participation of all its citizens; and

WHEREAS, the Voting Rights Act of 1965 will expire on August 6, 1975 of this year unless it is further extended by Congress; now, therefore, be it

RESOLVED: That we, your Memorialist, do hereby respectfully urge that Congress, prior to August 6, 1975, extend the Voting Rights Act of 1965 for an additional 10 years; and be it further

RESOLVED: That a copy of this resolution, duly authenticated by the Secretary of State, be transmitted by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to each Member of the Maine Congressional Delegation.

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

Mr. Carey of Waterville presented the following Joint Order and moved its passage: (H. P. 1396)

WHEREAS, Governor Longley has transmitted to the Legislature his proposed budget for fiscal years 1976 and 1977; and

WHEREAS, Governor Longley's budget has been the subject of intensive study by Legislators, the Legislative Finance Office and the Joint Standing Committee on Appropriations and Financial Affairs; and

WHEREAS, this study has revealed budget practices which appear to shift the burden of taxation from the State back to the municipalities, in violation of the intent of this and previous Legislatures; and

WHEREAS, this study has also revealed that legislation required by altered levels of funding certain programs has not accompanied the budget; and

WHEREAS, this study has raised questions concerning the following matters:

The lack of funding of the 1976 Presidential Election in Maine.

The failure to request sufficient funds for the State Treasurer to pay the interest on the school finance bonds which are to be used to finance the educational subsidy bill, otherwise known as L. D. 1994.

The proposed curtailment of aid to town road maintenance and curtailment of plowing of town roads.

Continuation of the general assistance

program of state subsidies to town welfare.

Sustaining the state retirement system by contributing sufficient moneys to insure funding levels recommended by the system's actuary.

Retaining the catastrophic illness program or eliminating the tax passed to fund the program.

The proposed budget overdraft of 2.7 million dollars to be used as matching funds to acquire federal transportation moneys.

The reduction in funds in many departments for personnel without any indication of a decrease in authorized positions or any indication of which employees are to be rifted.

The built-in misrepresentation of equality in personnel funds in fiscal year 1975-76 caused by the administrative decision not to include the pay raise passed by the 106th Legislature in the column which reads "estimated 75."

The announced decision of the Governor to close the Office of Energy Resources and the inclusion of a request to fund the office for 2 more years in his budget.

The appearance of uniform, across the board cuts in budgets for utilities for every department at a time when extremely substantial rate increases to the suppliers of services to the State House complex are imminent.

The announced decision of the Governor to pursue methanol production and the absence of funding of the project in his budget.

The use of the 1974 school bond issue to finance school subsidies, and the failure to request a similar bond issue to continue the practice for the next biennium.

The announced intention of the Governor to computerize state personnel records and the failure to include that request in the budget.

The announced intention of the Governor to remove 200 employees from the Department of Mental Health and Corrections and the failure to include such specific plans in his budget.

The numerous instances of cuts or failure to allocate for expenditures of federal funds.

The failure in some programs to appropriate state matching dollars for allocated federal funds; and

WHEREAS, substantial doubt exists in regard to the state revenue projections on which the Governor's budget is based; and

WHEREAS, in a time of severe economic uncertainty the Legislature must exercise special care not to authorize expenditures in excess of revenues; and

WHEREAS, this study of the budget has further revealed the possibility that the requirements for a balanced budget has not been met; and

WHEREAS, in light of these revelations a substantial alteration of the budget may be required to balance expenditures and revenues; and

WHEREAS, the Legislature realizes that any substantial alteration of the budget to remedy the aforementioned problem would also reorder the priorities of the budget; and

WHEREAS, the Legislature recognizes and respects the right and obligation of the Governor to use the budget to express his priorities for the future of the State; now, therefore, be it

ORDERED, the Senate concurring, that the Governor's budget be returned to him for review and reassessment so that he may have the opportunity to clarify the

aforementioned questions in an atmosphere free of political pressure; and be it further

ORDERED, that the Legislative Finance Office and the Joint Standing Committee on Appropriations and Financial Affairs shall assist the Governor and his office in this work, should the Governor so desire; and be it further

ORDERED, that suitable copies of this Order be transmitted forthwith to each of the aforesaid parties upon final passage of this Order.

The Order was read.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I introduce today the order I had distributed last Friday concerning the return of the budget to the Governor. I do so in spite of the fact that time has not permitted us to hold caucuses on the matter, time that is so important to the Governor, to us as legislators and to the people who are being served and who will not be served by this budget.

The revelation in this morning's KJ that projected revenues at \$7.5 over estimates, and that the Governor now wants to fund this catastrophic illness program gives even more reason for returning the budget to the Governor. This new money will give the Governor every opportunity to review and readjust his priorities. And the only formal way to give him that opportunity is to return this budget. He, just as we, has had the benefit of the Appropriation Committee's public hearings on the budget.

This morning's paper also carried a story concerning the new Commissioner of Mental Health and Corrections and his attempt to arrive at a "workable budget" out of what he was given when he arrived. He stated that he may be ready by next week; thus, another reason for returning the budget.

I would like to review some of the areas which have been researched by staff, areas that give cause for alarm or raise serious questions about the direction we are taking if this budget is passed about as presented.

In many programs, the expenditures of dedicated revenue has been restricted. Departments will, in some instances, be unable to provide the services for which fees are being paid. Taxpayers' dollars are not being saved by these restrictions unless the intent is to propose legislation transferring these dedicated revenues, a large carry over of the dedicated revenues, into the General Fund, and no such legislation, to my knowledge, has been proposed.

There is a definite problem with cuts in permissible expenditures of dedicated revenue. If these cuts are maintained, it may not be possible for departments to meet statutory requirements. The Bureau of Banking, and to some extent the Bureau of Insurance, may not be able to give the exams required by law. The budget also prevents the Department of Business Regulation from contracting for actuarial services required by statute.

The amount requested for the services of the state debt is based on sale of bonds for the past two years and anticipated sales for the next two years. The amount requested by the department anticipates sales of \$7.5 million in bonds and at a 5 percent interest rate. The Governor's budget asked the legislature to authorize issuance of \$10.6 million in school subsidy

bonds in 1976 and \$13 million in school subsidy bonds in 1977. This is \$9.6 million more than is anticipated in the debt service of the Governor's budget.

The State Treasurer estimates the need for at least an additional one half million dollars to pay interest and principal on the bonds that the Governor proposes to sell. It is not known why these expenses were not included in the budget, but they were not.

The budget for the Secretary of State for the fiscal year 1976 is so small that it appears there will be insufficient funds to run the 1976 election, and that is a presidential year where costs are always higher than in the off-year elections.

The State Retirement System can live within its budget except for one respect, the one million dollars that was cut in the annual contribution in the state's share. The Retirement System requires a certain amount of money each year to perform its tasks. The amount is determined by an actuary and is not debatable. If it is not appropriated, the employees, whose retirement is supposedly provided for, is shortchanged.

The order mentions many more areas, problem areas, that must be dealt with and speaks for itself. Basically, if we are going to give the Governor the proper route for making the needed adjustments to distribute all or any part of the surplus in areas consistent with his priorities, this is the route to take; and if new taxes are required, it is the right and the duty of the Governor to make recommendations to the legislature concerning such needed new taxation.

If leadership feels that we can caucus on this matter in the next two days, I would suggest that it might be tabled. But if we are going to give the Governor a decent opportunity to make changes, we cannot limit his time.

On motion of Mr. Rolde of York, tabled pending passage and specially assigned for Tuesday, April 15.

House Reports of Committees Ought Not to Pass

Mr. Quinn from the Committee on State Government on Resolution, Proposing an Amendment to the Constitution to Provide for the Appointment of the Attorney General and Secretary of State by the Governor (H. P. 15) (L. D. 23) reporting "Ought Not to Pass"

Mr. Quinn from the Committee on State Government on Bill "An Act to Require an Advisory Referendum on the Ratification by the Maine Legislature of the Equal Rights Amendment to the United States Constitution" (H. P. 324) (L. D. 389) reporting same.

Mr. Raymond from the Committee on Human Resources on Bill "An Act Concerning Reports to Municipal Overseers of the Poor by Stage Agencies Delivering Human Services" (H. P. 938) (L. D. 1158) reporting same.

Mr. Greenlaw from the Committee on Marine Resources on Bill "An Act Relating to the Taking of Lobsters in York River, County of York" (H. P. 652) (L. D. 804) reporting same.

Were placed in the Legislative Files without further action pursuant to Joint Rule 17-A.

Leave to Withdraw

Mrs. Post from the Committee on Health and Institutional Services on Bill "An Act to Expand the Authority of Pharmacists to Dispense Drugs by their Generic Names"

(H. P. 176) (L. D. 200) reporting Leave to Withdraw (Later Reconsidered)

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act to Remove Certain Laboratories from Exemption under the Maine Medical Laboratory" (H. P. 356) (L. D. 448) reporting same.

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act Relating to Membership on Advisory Commission under Maine Medical Laboratory Act" (H. P. 361) (L. D. 452) reporting same.

Mr. Gauthier from the Committee on Judiciary on Bill "An Act to Make Assault on a Police Officer a Felony" (H. P. 705) (L. D. 884) reporting same.

Mr. Theriault from the Committee on Veterans and Retirement on Bill "An Act Relating to Restoration to State Service" (H. P. 517) (L. D. 635) reporting same.

Mr. Theriault from the Committee on Veterans and Retirement on Bill "An Act to Permit State Employees with 25 Years of Service to Retire at any Age" (H. P. 820) (L. D. 1005) reporting same.

Reports were read and accepted and sent up for concurrence.

**Ought to Pass in New Draft
New Drafts Printed**

Mr. Cooney from the Committee on State Government on Bill "An Act to Require the Executive Council to Inform the Governor and the Legislature of its Activities" (H. P. 219) (L. D. 275) reporting "Ought to Pass" in New Draft (H. P. 1483) (L. D. 1620)

Mr. Hunter from the Committee on Legal Affairs on Bill "An Act Relating to the Sale or Possession of Commercial Slingshots and the Possession of Pellet Guns in Motor Vehicles" (H. P. 239) (L. D. 295) reporting "Ought to Pass" in New Draft (H. P. 1487) (L. D. 1679)

Mr. Peakes from the Committee on Business Legislation on Bill "An Act to Clarify the Law Relating to Group Insurance Certificates" (H. P. 617) (L. D. 763) reporting "Ought to Pass" in New Draft (H. P. 1485) (L. D. 1677)

Reports were read and accepted, the New Drafts read once and assigned for second reading the next legislative day.

**Ought to Pass with
Committee Amendment**

Mrs. Boudreaux from the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-149) on Bill "An Act Concerning Annual Notification Fees under the Consumer Credit Code, Concerning a Lender Collecting and Enforcing Loans without a License, and Requiring the Payment of Certain Investigation Fees to the Superintendent of the Bureau of Consumer Protection" (H. P. 607) (L. D. 750)

Report was read and accepted and the Bill read once. Committee Amendment "A" was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.

**Divided Report
Tabled and Assigned**

Majority Report of the Committee on Election Laws reporting "Ought Not to Pass" on Bill "An Act to Provide for Open Filing in Primary Elections" (H. P. 624) (L. D. 770)

Report was signed by the following members:

Messrs. O'LEARY of Oxford
BERRY of Cumberland
— of the Senate.

Mrs. BOUDREAU of Portland
Mrs. DURGIN of Kittery
Messrs. MACKEL of Wells
SHUTE of Stockton Springs
TALBOT of Portland
BIRT of East Millinocket
BUSTIN of Augusta
— of the House.

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

Report was signed by the following members:

Mr. CORSON of Somerset
— of the Senate.

Messrs. CALL of Lewiston
KENNEDY of Gray
ALBERT of Limestone
— of the House.

Reports were read.
The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, I move we accept the Majority "Ought not to pass" Report.

Thereupon, on motion of Mr. DeVane of Ellsworth, tabled pending the motion of Mrs. Boudreau of Portland to accept the Majority Report and specially assigned for Monday, April 14.

Divided Report

Majority Report of the Committee on Legal Affairs on Bill "An Act Amending Certain Laws Relating to Games of Chance" (H. P. 483) (L. D. 602) reporting "Ought to Pass" in New Draft (H. P. 1486) (L. D. 1678)

Report was signed by the following members:

Messrs. CORSON of Somerset
CIANCHITTE of Somerset
DANTON of York
— of the Senate.

Messrs. DUDLEY of Enfield
PERKINS of Blue Hill
GOULD of Old Town
HUNTER of Benton
SHUTE of Stockton Springs
BURNS of Anson
— of the House.

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

Report was signed by the following members:

Messrs. CAREY of Waterville
JOYCE of Portland
COTE of Lewiston
FAUCHER of Solon
— of the House.

Reports were read.

On motion of Mr. Shute of Stockton Springs, the Majority "Ought to pass" Report was accepted, the New Draft read once and assigned for second reading the next legislative day.

**Consent Calendar
First Day**

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

Bill "An Act to Repeal References to Dairy and Farm Institutions within the Department of Mental Health and Corrections" -- Committee on Health and Institutional Services reporting "Ought to Pass" (H. P. 514) (L. D. 632)

Bill "An Act to Eliminate the Position of Farm Supervisor of the Department of Mental Health and Corrections" --

Committee on Health and Institutional Services reporting "Ought to Pass" (H. P. 516) (L. D. 634)

Bill "An Act Providing for a State Developmental Disabilities Planning and Advisory Council" -- Committee on State Government reporting "Ought to Pass" (H. P. 871) (L. D. 1077)

Bill "An Act to Remove the Limitation on the Amount of Real or Personal Property Authorized to be Held by the Portland Diet Mission" -- Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-154) (H. P. 647) (L. D. 799)

Bill "An Act Relating to Compensation and Benefits under the State Classified Service" -- Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-153) (H. P. 406) (L. D. 495)

Bill "An Act Prohibiting Increase of Finance Charges on Outstanding Balances of Open-End Accounts under the Consumer Credit Code" (Emergency) -- Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-150) (H. P. 600) (L. D. 743)

Bill "An Act to Require a Notice of Default to be given within Prescribed Intervals as Applicable for Open-End Credit Transactions under the Consumer Credit Code" (Emergency) -- Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-151) (H. P. 608) (L. D. 751)

Bill "An Act Concerning Refinancing of Credit Sales on Consolidation under the Consumer Credit Code" -- Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-152) (H. P. 610) (L. D. 753)

Bill "An Act Relating to Motor Vehicle Certificates of Title" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-51) (S. P. 217) (L. D. 716)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 14, under listing of the Second Day.

**Consent Calendar
Second Day**

In accordance with House Rule 49-A, the following items appear on the Consent Calendar for the Second Day:

Bill "An Act Making Supplemental Appropriations for the Maine Human Services" (H. P. 626) (L. D. 772)

No objection having been noted at the end of the second legislative day, was passed to be engrossed and sent to the Senate.

Bill "An Act Relating to Sale of Stuffed Toys" (H. P. 669) (L. D. 843)

Objection having been noted, was removed from the Consent Calendar.

Thereupon, the Report was read and accepted, the Bill read once and assigned for second reading the next legislative day.

Bill "An Act Relating to Borrowing by Hospital Administrative District No. 1 in Penobscot County" (H. P. 887) (L. D. 1062)

No objection having been noted at the end of the second legislative day, was passed to be engrossed and sent to the Senate.

Passed to Be Enacted Emergency Measure

An Act to Authorize the Treasurer and County Commissioners of Waldo County to Procure a Loan to Build a Detention Center (S. P. 93) (L. D. 264)

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 one against, and accordingly, signed the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Establishing the Code of Fair Practices and Affirmative Action as the Equal Opportunity Standard for State Financed Agencies (H. P. 410) (L. D. 516)

An Act for the Humane Treatment of Animals in Schools, Public and Private (H. P. 457) (L. D. 561)

An Act Providing Compensation for Members of Inland Fisheries and Game Advisory Council (H. P. 542) (L. D. 658)

An Act Relating to Public Safety on Passenger Tramways at Ski Areas (H. P. 633) (L. D. 784)

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 item of Unfinished Business:

Bill "An Act to Amend the General Assistance Laws." (H. P. 1032) (L. D. 1320) — In House, Referred to Committee on Health and Institutional Services. — In Senate, Referred to Committee on Appropriations and Financial Affairs in nonconcurrence.

Tabled — April 9, by Mr. LaPointe of Portland.

Pending — Further consideration.

On motion of Mr. LaPointe of Portland, tabled pending further consideration and later today assigned.

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

Senate Divided Report — Majority (12) "Ought to Pass" — Minority (1) "Ought not to Pass" — Committee on Judiciary on Bill "An Act Increasing the Number of Associate Justices of the Supreme Judicial Court" (S. P. 147) (L. D. 510)

Tabled — April 9, by Mr. Hewes of Cape Elizabeth.

Pending — Acceptance of Either Report.

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

Mr. GAUTHIER: Mr. Speaker, I move we accept the Majority "Ought to pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: I would respectfully request a division.

This is a bill that would increase from six to seven the number of Justices of the Supreme Judicial Court. It has a price tag of \$49,600 for each of the next two years, a total of \$98,000. I ask you if this is one of the top priority items in the State of Maine at the present time?

This bill is sponsored by the Senate Chairman of the Appropriations Committee, and myself having been

involved in the distribution of dollars at the end of the session, I appreciate the strength of the Chairman of the Appropriations Committee in passing a bill. It only involves \$50,000 or so, \$49,000 a year, and I can see there would be thought, well, let's pass this particular bill, let's particularly give something to the judiciary. Well, I submit the judiciary needs more pay for the judges or needs other factors rather than an additional judge. I don't want them just to throw a bone to the judiciary that we'll give them an extra judge.

I am not criticizing the present judges. They are very industrious, hard working, intelligent, fine men. I think we perhaps have the finest judiciary in the country.

I was fortunate yesterday to attend a swearing-in ceremony of ten new lawyers in Portland, among them the Senator from Portland, Senator Merrill, and four very fine Justices of our Supreme Court, Justices Pomeroy and Wernick of the Supreme Court, and Justices Reid and Brown of the Superior Court presided over this affair. I say to you, I was proud to be a member of the Bar of the State at this very impressive ceremony. But as one of the justices spoke to the new lawyers, he encouraged them to wait for that particular case that would allow them to go to the Supreme Court and perhaps change the existing law. Have the courage, he told them, to follow through with some cause, in effect, that might change what know is stare decisis, or the existing law.

I submit that the Supreme Court should not be making the law, the judges should be interpreting the law. It is our function to pass the laws, to make the laws, not the court. And in recent years, not just the Court of Maine but the courts throughout the country have in effect made law. You hear about court-made law. An example is the famous case of which you are all aware, *Brown v. Board of Education*, the U.S. Supreme Court case, or another case of the Supreme Court of California in *Serrano v. Priest*. That could be one of the reasons that our L. D. 1994 was passed, because of the judge's ruling in that case under threat here in Maine that perhaps our Supreme Court or the Supreme Court of the United States would, in effect, make law that would affect the education systems here in Maine.

I submit that the Supreme Court need not be encouraging overturn of existing law. I, myself, took an appeal to the Supreme Court a year or two ago for a client, the case of *Wolfe v. Shorey*. I knew what the law was in Maine, but I hope that the Supreme Court would overturn the law in Maine and follow the law the majority ruled in other states. They didn't choose to do so, but I submit judges would not be as busy as they are if they would just interpret the present law or apply the already made law here in the state.

For example, there is a bill that will be coming before you shortly, sovereign immunity, which relates to the immunity of municipalities and what not. And one reason that is being introduced here is because the Supreme Court has said if the legislature doesn't do something about sovereign immunity, we are going to do something about it.

They, a few years ago, changed the law, so-called *lex locus delicti*. That is, the place of the wrong. Up until this recent decision they changed the law. If you were involved in an accident in Massachusetts, you would use the law in Massachusetts in interpreting what law should apply. Under

that recent decision, you look to the place of contacts, which, in this particular case, was the State of Maine.

The judges now are not hearing nearly the equity cases they used to, that would be single member cases. Most of their time is put in on this appellate work. They now have law clerks, which they did not have some years ago. Each Supreme Court Justice has a law clerk. And I submit that there is not the need for this seventh judge, if the judges would concentrate on interpreting the law that we pass rather than being involved in trying to change the law, which I think is the legislative prerogative.

I urge you to vote against the pending motion.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respectfully differ with my good friend Mr. Hewes from Cape Elizabeth. I would like to also remind the House that the Committee Report, which is not on our calendar today, was a 12 to 1 report, which still ought to be dealt with, of course, on its merits, but the committee did consider this rather seriously.

In addition, I think whatever the flaws might be in terms of judge-made-law at the federal level and in other states, I think we have to consider the situation in the State of Maine where we now have a Supreme Court with an even number on it, and that might be one reason, aside from the caseload, to change the number.

When this issue came up, I asked our committee clerk to write a letter to the office of the administrator of the Supreme Court concerning the number of cases they have been dealing with over the last 10 or 11 years, and I would just like to briefly give you a summary of the situation in terms of two things; one, the number of cases the Supreme Court has had to deal with and, two, the number of Superior Court Justices as they have changed over the years.

What we have been doing over the past 11 years or so is increasing the number of Superior Court Justices. We have been opening up the system at that level, but we still kept the bottleneck at the top. For instance, in 1964 there were 65 cases filed before the Supreme Court; at that time we had 9 Superior Court Justices. In 1965, there were 89 cases before the Supreme Court; we had 10 Superior Court Justices. In 1969, the number of Superior Court Justices was increased to 11; there were 112 cases before the Supreme Court. In 1971, we increased the Justices to 13, Superior Court Justices, and there were 145 cases before the Supreme Court. In 1973, we increased the number of Superior Court Justices to 14; there were 186 cases before the Supreme Court, and this year, on a projection based on the first three months of this year, it is expected that there will be 260 cases before the Supreme Court. In a general sense, in 1964 we had 9 Supreme Court Justices, 65 cases before the Supreme Court. Now we have 14 Superior Court Justices and roughly 260 cases before the Supreme Court.

The workload has increased and I think we can see many of the reasons for it, and if we are going to continue to have quality justice in the state and also to speed up some of the processes and eliminate some of the long waiting periods. I think this is a step in the right direction.

The SPEAKER: The Chair recognizes

the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: This report came out of our committee after quite lengthy deliberation, as you can see, twelve to one. This really has been discussed and the report itself will prove that the bill is really needed. In fact, I called up the Chief Justice of the Supreme Court this morning, and I asked him personally, I said, which bill would you rather have? I said, the bill for the increase or the extra judge? He said, I will tell you, I would like to speak for myself, but the other judges I don't know how they feel. I said, I am asking you this, I said, number one in line with number two priorities? He said, what are they at the present time? Well, he said, we have got a backlog of cases for over one year, of cases that have been waiting for a year to be taken care of. So he said, I have to say that we need an extra judge to help us out because otherwise we can't do it, but we would like to have both. I said, we will try to get you this one here if we can but I can't promise you that there will be any wage raises due to conditions as they are at the present time.

I am sure, ladies and gentlemen of this House, that this bill, if there isn't enough money, that priorities are directed in other directions, the Appropriations Committee, when it comes to them, will take care of it and if this is deserving they will also take care of this. I hope that you will pass it and give it a chance in the Appropriations Committee to have a chance to help the state out if it is possible at all.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I submit that we need and can use extra personnel in Health and Welfare and many departments and the need is much greater than it is in this particular department. These particular judges, their hours are quite small, they work a very few hours a day, and if the work load was that big in some of the other departments, they work another half an hour or hour a day, I submit. I think the need for money to the Appropriations Committee, I can cite you many instances where the money would be better spent and I can also cite you some very able attorneys who would be more than pleased to take these jobs if this is too much strain on the particular judges that we are talking about. There are some very able attorneys in this state that would be so happy to have one of these jobs and that would probably work an extra hour or do a little extra to get this load cleared off.

I notice as the years go along these people in these high judicial positions work less hours instead of more. As the work load increased in my line of business I had to increase the hours that I worked and they decrease the hours they work in most cases.

In view of the fact that I can see the need much greater in other departments if we did have some money, and first of all we don't have any, I can see that a man has to be strong in this belief, that is an attorney, to get up and speak against judges that he is going to be before quite often. I don't expect to be before one in the near future and it wouldn't make any difference if I did. I still think they are paid plenty and there are plenty of qualified men to take the job and they would be tickled to death to do it. So long as that exists, I can't see spending this extra money.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Just a few comments. I would like to say that we are constantly addressing ourselves to the problems of law and order, and one of the greatest problems we have is the fact that we don't have enough personnel both in our judicial system and in our law enforcement field. One of the things that we have failed to recognize is that until the day arises when we are willing to pay for sufficient personnel, educated personnel, we will always have problems with law and order. That is one reason that I feel that increasing the number of the judiciary of the Supreme Judicial Court would give us some help.

I would add a comment to that by saying that before cloture date arrived, a member of the third body came in to me and asked if I would introduce a bill that would force the Supreme Judicial Court of the State of Maine to render their decisions quicker than they presently are, because he has a matter on appeal to that court and they haven't come back with a decision fast enough for him, even though the matter has been argued. Frankly, I said no. I don't know what sort of a bill I would introduce to force our Supreme Judicial Court to work longer hours than they presently are.

In addition to that particular problem, we were faced during the last session of the legislature, the 106th Session, with a very critical matter concerning collective bargaining in school matters. We awaited patiently for a decision of the Supreme Judicial Court and we were accorded that decision. The unfortunate aspect about that decision, which left this body and the other body still in a quandary, was the fact that we had a three to three decision, which left us, for those of us who wanted to take a given side, we said here, the Supreme Judicial Court has favored our position. The other side was able to say the same thing. We were unable to collectively as a body reach a decision independent of the Supreme Judicial Court and the matter went down the drain.

While we can sit here and say we don't need another one or it will cost us more money, it is still a matter of how do we accommodate law and order, how do we accommodate getting decisions that we can effectively deal with for ourselves here as well as to accommodate the citizens of the State of Maine. I do urge that you accept the majority "ought to pass" report.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: In regard to the judges not putting in their time or working only small hours, I would like to mention to you that I have been trying for four or five days to get the Chief Justice and I have had a hard time to reach him. His secretary told me that if I wanted to reach him I would have to call him before eight o'clock in the morning that he has been traveling to Farmington for the last eight days and has never been in the office yet because he had to take care of cases himself up in the courts in Farmington.

The SPEAKER: The pending question is on the motion of the gentleman from Sanford, Mr. Gauthier, that the House accept the Majority "Ought to Pass" Report. All in favor of accepting the

Majority "Ought to Pass" Report will vote yes; those opposed will vote no.

A vote of the House was taken.

68 having voted in the affirmative and 35 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once and assigned for second reading the next Legislative day.

The following Paper from the Senate was taken up out of order by unanimous consent:

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" (Pursuant to Joint Order S. P. 431) on Bill "An Act Appropriating Additional Funds to the Department of Health and Welfare for Medical Care Payments and General Assistance Payments for the Fiscal Year Ending June 30, 1975" (S. P. 488) (L. D. 1673)

Came from the Senate with the Report read and accepted, and the Bill passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the Bill read once. Under suspension of the rules, the Bill was read the second time, passed to be engrossed and sent to the Senate.

By unanimous consent, ordered sent forthwith.

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

Bill "An Act to Provide for the Maintenance of Neglected Dams and Existing Water Levels in Lakes Impounded by Dams" (H. P. 1459) (Committee on Reference of Bills suggests Committee on Public Utilities)

Tabled — April 10, by Mr. Cox of Brewer.

Pending — Reference.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I move this to be sent to the Committee on Public Utilities, ordered printed and sent up for concurrence.

The SPEAKER: The Chair recognizes the gentleman from Bar Harbor, Mr. MacLeod.

Mr. MacLEOD: Mr. Speaker, Ladies and Gentlemen of the House: I would disagree with my good friend from Bangor on the reference of this particular bill and would speak very briefly to it.

I would move that this bill go to the Committee on Natural Resources. Having served on this committee in a couple of previous legislatures, I feel that this committee has the expertise and the knowledge to handle this bill, "An Act to Provide for Maintenance of Neglected Dams and Existing Water Levels in Lakes Impounded by Dams."

Just to shed a little light on the dam situation in the State of Maine, we are, at this particular time, faced with the disposition of some 1,200 dams in the State of Maine. Many of them are state owned, but many more, of course, are owned by towns and some I guess they don't even know who the ownership is. So at this time I would ask for a division and go against the motion to refer this bill to Public Utilities.

The SPEAKER: The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I happen to be secretary of the Annabessacook Lake Association. We have a dam that is in

trouble. They had to sand bag it the other day. Without it we wouldn't have much lake. There is no public utility connected, with it in any way shape or manner. It seems to me that the logical place for this bill is in Natural Resources Committee.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I do agree wholeheartedly with my good friend from Bar Harbor, Mr. MacLeod, that the Natural Resources Committee is the committee that is capable of handling anything. I might remind this House they are very capable individuals. I might remind this House that we had this bill before PUC two years ago. It came out of the committee with a report. Unfortunately they tacked an appropriation on it and it died and subsequently we came up with a study order. I think that Mr. MacLeod is right. It is not 1,200 dams that this state is concerned with, it is something like 2,600 dams. Some of us who have served on the PUC Committee have done some considerable study.

We have got another bill before us somewhat similar to this one that Representative Stubbs has sponsored, and what we are getting into now is a battle between the Civil Defense Department, whether they should have it or whether Charlie Boothbay and his crowd over in Soil and Water Conservation should have it. I think that the PUC Committee or some of us that have served on it before are quite familiar with it and it would be rather ridiculous for us to try to pass judgment on where Mr. Stubbs bill goes which is somewhat similar, or consider whether it should to the Civil Defense and have another committee report out a bill as far as soil and water conservation is concerned and their consideration. It is just a matter of judgment of the House. If you want to send it there that is certainly your prerogative, and I know you will exercise it, but I do think that we are capable enough, in PUC, to study it.

The major dams in the state, of course, are under federal control, with some supervision from the PUC commission. This bill doesn't say that we want it to go under the PUC commission. I just believe that we are equally as competent and able to handle the matter and I hope you support my motion.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: In previous sessions we have had this same thing over dams in various bill forms and everything else. It has always wound up in a lot of chaos and confusion and nothing was ever accomplished. When I sit down I am going to support Representative Kelleher's motion to send this to PUC.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Bill be referred to the Committee on Public Utilities and ordered printed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 33 having voted in the negative, the motion did prevail.

Sent up for concurrence.

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

Bill "An Act Concerning Employment in

the Department of Mental Health and Corrections" (H. P. 476) (L. D. 596)

Tabled — April 10, by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed.

Mrs. Berry of Madison offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-155) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended and sent to the Senate.

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

Bill "An Act Exempting Certain Energy-Conserving Building Construction Materials from Taxation" (Emergency) (S. P. 461) (L. D. 1514) (Committee on Reference of Bills suggests Committee on Energy)

Tabled — April 10, by Mr. Finemore of Bridgewater.

Pending — Reference.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: Due to the fact that this has a tax loss I presume it belongs in Taxation. I move that it be referred to the Committee on Taxation, ordered printed and sent up for concurrence.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, moves that L. D. 1514 be referred to the Committee on Taxation in non-concurrence.

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

Mr. ROLDE: Mr. Speaker and Members of the House: I note that the chairman of the Energy Committee is not in his seat at this moment. I wonder if someone could table this for one legislative day.

On motion of Mr. Cote of Lewiston, tabled pending the motion of Mr. Finemore of Bridgewater that this Bill be referred to the Committee on Taxation in non-concurrence and specially assigned for Monday, April 14.

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

House Divided Report — Majority (8) "Ought to Pass" Minority (5) "Ought not to Pass" — Committee on Judiciary on Bill "An Act Relating to the Disposition of Fines and Penalties Resulting from Criminal Prosecutions by Wardens" (H. P. 405) (L. D. 494)

Tabled — April 10, by Mr. Conners of Franklin.

Pending — Further Consideration.

On motion of Mr. Gauthier of Sanford, the House voted to insist on its action whereby the Bill was passed to be engrossed.

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

Bill "An Act to Amend the General Assistance Laws." (H. P. 1032) (L. D. 1320) — In House, referred to the Committee on Health and Institutional Services. — In Senate, referred to the Committee on Appropriations and Financial Affairs in non-concurrence.

Tabled — April 9, by Mr. LaPointe of Portland.

Pending — Further Consideration.

On motion of Mrs. Berry of Madison the House receded from its action whereby the bill was referred to the Committee on Health and Institutional Services.

On further motion of Mrs. Berry of Madison, was referred to the Committee on Performance Audit in non-concurrence and sent up for concurrence.

On motion of Mr. Goodwin of South Berwick, the House reconsidered its action of earlier in the day whereby it accepted the Leave to Withdraw Report on Bill "An Act to Expand the Authority of Pharmacists to Dispense Drugs by their Generic Names," (H. P. 176) (L. D. 200).

On further motion of the same gentleman, was recommitted to the Committee on Health and Institutional Services, and sent up for concurrence.

The following Enactor was taken up out of order by unanimous consent:

"An Act Appropriating Additional Funds to the Department of Health and Welfare for Medical Care Payments and General Assistance Payments for the Fiscal Year Ending June 30, 1975 (S. P. 488) (L. D. 1673)

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

The SPEAKER: The Chair recognizes the gentleman from Dover-Foxcroft, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: You will recall when we had the last supplemental appropriations act for this year before you a couple of weeks ago, perhaps it was a week ago, I mentioned that there was \$2.9 million of additional money that the Governor had suggested be passed out of the committee through the legislature for payment that the committee at that time declined to do because we felt that we could not justify to you where the money was coming from.

In recent hours, really, the money has become available, as you have probably read in the paper this morning, and these are bills under the medical care account and under the general assistance account that are owing by the State of Maine and many of them are as much as 90 or 120 days overdue, many of them to your own home towns, and the Appropriations Committee at this time feels that these bills should be paid as promptly as possible.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I am in support of this bill and I don't have any problems with it, but I would like to pose a question on its timing. I would like to know if there is any relationship, and maybe someone from the Appropriations Committee could answer me, why this bill didn't come through and pay it earlier and if there is any relationship to the timing of this bill in relation to the spruce budworm bill?

The SPEAKER: The pending question before the House is enactment of Senate Paper 488, L. D. 1673. This being an emergency measure, under the terms of the Constitution, it must have the affirmative vote of two thirds of the entire elected membership of the House. All those in favor of passage to be enacted will vote yes; those opposed will vote no.

A vote of the House was taken.

127 having voted in the affirmative and none in the negative, the Bill was passed as an emergency measure, signed by the Speaker, and sent to the Senate.

By unanimous consent, ordered sent forthwith.

The SPEAKER: The Chair would ask the Assistant Sergeant-at-Arms to escort the gentleman from Cape Elizabeth, Mr. Hewes, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Hewes assumed the Chair as Speaker pro tem and Speaker Martin retired from the Hall.

Mr. Rolde of York was granted unanimous consent to address the House.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Despite my faulty microphone, I would like to put on the record a few remarks concerning a hearing that was held yesterday by the State Government Committee. Yesterday, this committee heard two bills, each of which was to establish a State Insect, one the Monarch Butterfly and the other the Honeybee. These bills have been the object of a great deal of attention, and I might add, a certain amount of derision. There have been a lot of jokes around here about them. We have kidded ourselves about them and we have also been the object of some kidding by the press. There is a cartoon posted on the board outside that shows someone holding a newspaper with a headline, "Legislator's Discuss Vital Issues While Some Other People Are Voicing Their Thoughts on the State Insect."

Needness to say, it is vital that we all keep a sense of humor up here and that we do not become so self important that we cannot stand a little kidding, but I would like, if I can, to put these two State Insect Bills into a more proper perspective, because the impression may have accidentally been left, as it sometimes is when publicity is given to a seemingly frivolous bills, that we do nothing here in the Legislature but horse around and waste the people's tax money.

These State Insect Bills were generated, as some of you know, by youngsters in our elementary schools. I believe this was done at the suggestion of the Ranger Rick magazine, which many of our school children receive. I believe further that our prime purpose here was to help educate these youngsters in the democratic process of initiating a law and working it through our legislative system.

Those who were at the hearing yesterday testified to the zeal with which these youngsters worked in presenting their cases to the State Government Committee. I can testify to the evidence of their work in the town of Kennebunk in the petitions that I saw distributed there before the hearing.

No doubt the youngsters who worked on this project received an education in civics and the workings of democracy that has not been granted to many of our citizens. Hopefully, this aspect of the State Insect Bills will be emphasized by the press in their reporting of the action that is taken on these measures. Perhaps it is not necessary for the press to further point out that the State Government Committee handles a great many bills of great significance to the people of this state, and that they work long and hard hours on problems of baffling complexity, but it might be nice to have that fact emphasized sometime.

I know that many of us were disappointed when the major governmental reform passed by us this session, the establishment of single member districts, was virtually ignored by the press and it is only in the past weeks that they have belatedly awakened to the

significance of what we did. Being in public service and serving the legislature is not easy, as we all know. Any governmental feelings are always ripe to be exploited. It probably makes some people feel good to think of their representatives in Augusta as a bunch of clowns and articles that seem to emphasize the frivolous side to what we do only adds fuel to the fire.

We will always have bills like the State Insect Bills or like one I remember in the past, a bill to ban bull fighting in Maine, and there will be some good-natured kidding about them. I can only hope, for balance, the story is also told of the long, long hours that we work here for precious little compensation and of our sincere and tireless efforts to serve all of the people of Maine, even if they are only fourth graders anxious to determine through the process of our American democracy whether the Monarch Butterfly or the Honeybee should be Maine's state insect. (Applause)

(Off Record Remarks)

On motion of Mr. Rolde of York,
Adjourned until Monday, April 14, at
ten o'clock in the morning.