

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

HOUSE

Tuesday, March 20, 1979

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

Prayer by Reverend Jack Stewart of the Full Gospel Tabernacle, Lincoln.

Reverend STEWART: Our Father, we thank you this morning for all of the good things that you have done for us. In an age of so many communications, all of us here are aware of the vast potentials of reaching people but, Lord, we thank you this morning for this wonderful medium of prayer, a method which there is never any misunderstanding in—you always understand exactly the feelings of our hearts. Lord, we appreciate the opportunity at the beginning of this legislative day of lifting our voices and saying, thank you, Lord, for caring for us, thank you for listening in on what we are concerned about, and we pray that you will bless all of the deliberations of this day, bless our hearts, they are real to us. We thank you again for everything in Jesus name. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE

Augusta

March 20, 1979

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate voted to Adhere to its action whereby it Indefinitely Postponed Bill, "An Act to Create a State Compensation Commission," (H. P. 403) (L. D. 523).

Respectfully,

s/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

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

The Wildcats of Presque Isle have won the Eastern Maine Class A Basketball Championship for the academic year 1978-79 (S. P. 416)

Came from the Senate read and passed.

In the House, was read and passed in concurrence.

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

Richard Mansir, son of Mr. & Mrs. Richard Mansir, 20 Fairview Avenue, Randolph, at 145 lbs has been the State Championship Wrestler for the past 2 years with a record of 30 wins - 0 losses for the academic year 1979 (S. P. 417)

Came from the Senate read and passed.

In the House, was read and passed in concurrence.

Bill "An Act Concerning Insurance Consultants" (S. P. 381) (L. D. 1213)

Bill "An Act Relating to the Sunday Sale of Furniture" (S. P. 388) (L. D. 1199)

Bill "An Act Relating to the Listing of Contracts Made by Real Estate Brokers and Salesmen" (S. P. 389) (L. D. 1200)

Bill "An Act to Revise the Qualifications for Electricians" (S. P. 390) (L. D. 1201)

Bill "An Act to Clarify and Correct Laws Related to Real Estate Brokers and Salesmen" (S. P. 391) (L. D. 1202)

Bill "An Act to Amend the Manufactured Housing Act" (S. P. 394) (L. D. 1203)

Bill "An Act to Transfer the Board of Registration for Professional Foresters from the Department of Conservation to the Department of Business Regulation" (S. P. 399) (L. D. 1204)

Bill "An Act to Transfer the State Board of Certification for Geologists and Soil Scientists

to the Department of Business Regulation" (S. P. 398) (L. D. 1216)

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

In the House, referred to the Committee on Business Legislation in concurrence.

Bill "An Act Relating to Vocational Education Regions" (Emergency) (S. P. 396) (L. D. 1214)

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

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

Bill "An Act to Create a Ground Water Protection Commission to Review the Laws Dealing with Ground Water" (S. P. 397) (L. D. 1215)

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

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

Bill "An Act Authorizing a Legislative Study on Family Impact" (S. P. 386) (L. D. 1198)

Came from the Senate referred to the Committee on Health and Institutional Services and ordered printed.

In the House, was referred to the Committee on Health and Institutional Services in concurrence.

Bill "An Act Concerning Revisions in the Maine Criminal Code" (S. P. 395) (L. D. 1210)

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

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

Bill "An Act to Clarify Executive Conflict of Interest" (S. P. 400) (L. D. 1223)

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

In the House, on motion of Mrs. Kany of Waterville, was referred to the Committee on State Government in non-concurrence and sent up for concurrence.

Reports of Committees Ought Not to Pass

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act Concerning Insurance Proceeds under the Maine Insurance Code" (S. P. 282) (L. D. 850)

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act Concerning Certificates of Contribution under the Maine Insurance Code" (S. P. 280) (L. D. 840)

Were placed in the Legislative Files without further action pursuant to Joint Rule 22 in concurrence.

Leave to Withdraw

Report of the Committee on Transportation reporting "Leave to Withdraw" on Bill "An Act to Restrict Railroad Companies from Operating Trains Through Selected Intersections in Municipalities During Peak Traffic Conditions" (S. P. 138) (L. D. 315)

Report of the Committee on Fisheries and Wildlife reporting "Leave to Withdraw" on Bill "An Act Relating to Fishing Limits under the Inland Fisheries and Wildlife Statutes" (S. P. 165) (L. D. 374)

Came from the Senate with the Reports read and accepted.

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

Out of Order

On motion of Mr. Mahany of Easton, the following Joint Order: (H. P. 1112) (Cosponsor: Sen. Hichens of York)

WHEREAS, The Maine Agricultural Industry proudly proclaims the following reigning queens for 1979:

Maine Apple Queen - Miss Cindy Plossay.
Grange Agricultural Queen - Miss Marsha Cook.

Maine Blueberry Queen - Miss Susan Gagnon.

Maine Broiler Queen - Miss Sheridan Lafayette.

Farm Bureau Queen - Miss Darlene Yeaton.

Maine Egg Princess - Miss Rhonda Braley.

Maine Potato Queen - Miss Lori Irving.

Miss Rodeo Queen - Miss Julie Cowley.

Maine Sea Goddess - Miss Laurie King.

We, the members of the Senate and House of Representatives, do hereby join in this order to extend our acknowledgment and congratulations, and be it

ORDERED, while duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, that this official expression of sentiment be sent forthwith on behalf of the Legislature and the people of the State of Maine

The Order was read.

The Chair appointed the following members to escort the Agricultural Queens to the rostrum:

NELSON of Rogue Bluffs to escort the Maine Blueberry Queen.

DAVIES of Monmouth to escort the Maine Apple Queen.

MORTON of Farmington to escort the Farm Bureau Queen.

DEXTER of Kingfield to escort the Grange Agricultural Queen.

ROOPE of Presque Isle to escort the Maine Potato Queen.

LOWE of Winterport to escort the Maine Broiler Queen.

WYMAN of Pittsfield to escort the Maine Egg Princess.

The SPEAKER: Before we begin, I always enjoy this experience each year. It gives me an opportunity to introduce the young people to the legislature, and since so many of us have now given up on being young, this is obviously an opportunity for us to dream again, I guess.

I would also like to make one announcement. We have a problem. There is one of the queens who could not be present with us today, Laurie King, who is the Maine Sea Goddess, and it was suggested by some but rejected by the Speaker that I invite Bonnie Post to represent the Maine Sea Goddess Festival. (Applause) For many reasons, the Chair turned that down.

I am going to ask all of you to say a few words, if you might, and I don't know what order I will be picking you, so you will have to forgive me if I don't give you a chance to think about all of this.

I would like for us to call on the Maine Blueberry Queen, Susan Gagnon, who is from East Machias.

SUSAN GAGNON: Hi, my name is Susan Gagnon and I am originally from Whiting, which is right near East Machias. My reign started in August and so far the only representation of Maine that I have been to was at the New England Exposition, and I just felt that Maine's blueberry industry wasn't really represented quite enough there. I don't know really if it is the state or the manufacturers, but I am going to talk to my sponsor and I have talked to the Union Fair which sponsors me, and I think next year maybe we can get a little bit more blueberries down there. Thank you. (Applause)

The SPEAKER: Now the Maine Apple Queen, Cindy Plossay from Winthrop.

CINDY PLOSSAY: Good morning, ladies and gentlemen. I am Cindy Plossay, the 1979 Maine Apple Queen. You have all heard the expression "An apple a day keeps the doctor away." Well, apples are good for your health. Apples contain vitamins such as riboflavin, ascorbic acid. The minerals include calcium, phosphate

and iron, providing the important part of your daily requirements. Not only are apples important for good health but they are important for the total health of Maine's economy. While apples make up about 2 percent of Maine's farm income, there exists the future possibility of breakthroughs in apple agriculture and in the available land in Maine suitable for orchard pursuits. Apples could become a more important factor in Maine's agricultural productivity. Presently, the large apple producing counties are: York County, followed by Androscoggin and Kennebec counties respectively, but how many of you know an old apple orchard no longer being tended to, choked by encroaching forests, that in older times was very productive? Virtually every old farmstead had its orchard. It used to produce an important part of farmers' diets and provide a surplus that could be traded for other essential goods. In Maine today, farms like High Moor, owned by Warren Stiles, is a good example of modern apple production. The lead variety is Macintosh, followed by Cortland and Red Delicious.

In 1977, the cash income was \$10,525,000, sold and utilized in 42 pound units totalling only 2,095,000 units, or a total weight of 87,990,000 pounds. This impressive figure is made possible by continued research and development in the improved storage and controlled ripening off the tree, replanting orchards with smaller trees for improved productivity and to facilitate harvesting. Efforts are also under way to extend the market for Maine apples, as well as create fast-ripening hybrids. Every effort should be made by private and public enterprise to develop our apple resources and expand the benefits of this healthful fruit not only to more citizens of the United States and this hungry world but also to allow Mainers to enjoy a greater degree of prosperity. Thank you. (Applause)

Mr. SPEAKER: It is my pleasure now to introduce the Farm Bureau Queen, Darlene Yeaton of Farmington.

DARLENE YEATON: Hello, I am Darlene Yeaton and I am from Farmington, Maine. I am very honored to be here representing the Maine Farm Bureau and I am very happy to have the invitation.

This year, I was elected as the 1979 Farm Bureau Queen in November. Thus far, I have been very busy and the highlight so far has been attending the National Farm Bureau Convention in Miami, Florida. Here I learned a great deal about Farm Bureau and ways to promote the Farm Bureau Organization. Thank you again for the invitation. (Applause)

The SPEAKER: The Chair would introduce Marsha Cook of Phillips, the Grange Agricultural Queen.

MARSHA COOK: Hello, my name is Marsha Cook, and actually I am from Avon. It is near Phillips, but Avon is where I am actually from.

I represent the Grange Agricultural Committee, which is part of the grange, plus I represent the whole grange in itself. I have attended many agricultural events this year, including the Maine Farm Days and the Exposition in Springfield and the Agricultural Trade Show. I have had a nice time in my reign. I want to thank you for inviting me. (Applause)

The SPEAKER: The Maine Broiler Queen, Miss Sheridan LaFayette from Winterport.

SHERIDAN LaFAYETTE: Good morning. It is kind of hard to follow the Maine Apple Queen when you don't have a speech prepared, so this is very impromptu.

I represent the Maine Broiler Festival of Belfast, Maine. Each July, they hold a festival that goes pretty much all week long where they have talent shows, the largest parade in Maine, the Broiler Festival Queen is crowned, the largest chicken barbeque which you all should come to; it is very delicious. It is an all-round good time for everyone, for all communities.

I was crowned in July and I have had such a

wonderful time. I got a free trip to Springfield where I met Governor Longley and all the Agricultural Committee that is here today. I have met them two or three times. What more can any girl ask for than to be crowned by Senator Cohen and be kissed by him, too? Thank you. (Applause)

The SPEAKER: The Maine Egg Princess, Miss Rhonda Barley from Pittsfield.

RHONDA BRALEY: I am very honored to represent egg agriculture in Maine. I am only a sophomore and I am very honored to be chosen Egg Princess 1978. I was crowned last July and I have not attended many events, but I have gained experience. I have most liked meeting the other agricultural queens, and I hope my reign will include some more events, but I would like to see it fuller for the next year's Egg Princess. I hope to see you all at the Egg Festival this year. The festival has grown over the past years and has come to be a big event in Pittsfield. I am sure you would enjoy it and thank you for inviting me here. (Applause)

The SPEAKER: I am sure some of you think I am biased, and that is not the reason why I held off introducing the Maine Potato Queen, but it is now my pleasure to introduce the Maine Potato Queen, Lori Irving from Presque Isle.

LORI IRVING: Good morning everybody. I am very happy to be here this morning and very proud to be representing Maine potatoes. Thus far, I was crowned in July. I just recently have been to New Orleans to promote the Maine potatoes, travelled around the state and been to the Eastern States Exposition where I have met all the queens, who have been very nice, and I would just like to thank you all, because if it wasn't for you, a girl my age wouldn't have the opportunity that we have. Thank you. (Applause)

The SPEAKER: Once again, thank you very much, and it is for these reasons, I think, that we are pleased to have you with us to celebrate Agricultural Day in the Maine House and the Maine Senate. Of course, I noticed this morning, prior to the session, so many legislators who were making themselves available to partake of some of the things out in the hall, and I suspect that also the apples and the potatoes that will be distributed later in the day will be taken home by legislators and enjoyed by all of us.

Again, thank you, and I would ask your escorts to escort you back to the hall.

Thereupon, the Agricultural Queens were escorted from the Hall of the House, amid prolonged applause.

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

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

Out of Order

An Expression of Legislative Sentiment (H. P. 1110) recognizing that:

The Future Farmers of America is a dedicated association of youth that proudly plays a major role in the agricultural industry of this State

Presented by Mr. Roope of Presque Isle. (Cosponsor: Senator Carpenter of Aroostook)

The Order was received out of order by unanimous consent, read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Require Restitution by a Criminal Offender to his Victim and to Require Payment of Prosecution and Court Costs" (S. P. 227) (L. D. 642)

Report was signed by the following mem-

bers:

Messrs. COLLINS of Knox
DEVOE of Penobscot

Mrs. TRAFLET of Androscoggin
— of the Senate

Mr. HOBBS of Saco
Mrs. SEWALL of Newcastle

Messrs. SILSBY of Ellsworth
GRAY of Rockland
JOYCE of Portland
STETSON of Wiscasset
SIMON of Lewiston

— of the House

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

Report was signed by the following members:

Messrs. LAFFIN of Westbrook
CARRIER of Westbrook

— of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

In the House: Reports were read.

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

Mr. HOBBS: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: Many times in our society, we do things we don't have to pay for and we can get away with it. Sometimes I think we, as individuals, should have our responsibilities and should accept those responsibilities and be obligated to fulfill those responsibilities.

We have had in our county in the last few weeks several young people break into four or five camps, did a lot of damage, then they went over to another pond and burned one of the camps. People have to work hard for these things and most of those camps were owned by people who live on fixed incomes, who were retired, and most of those camps are owned by people that didn't accept anything out of society and only paid into our society. I think that that means a lot.

I think if people only realized that if they go out and destroy other people's property, they are obligated to pay for the damage and the acts that they have committed against the people, I think that they might think twice. I know there will be those who say — well, people don't think when they do something wrong, they don't think of the consequences and that might be absolutely true. I think probably there are a lot of those people, but I also believe that if we had a law on the books for the people of this state, if they go out and commit vandalism, if they commit harm, if they destroy other people's property that they have worked hard for and tried to achieve so that they could enjoy their retirement, I think that this legislature should have an open ear.

I realize that there are complications with this bill. I told the members of the committee that we had a very intelligent group of lawyers, including my very good friend the House Chairman, that this bill could be put into good workable force. We had opposition from the courts and one of the members of the House said some term that I am not too familiar with, so I can't repeat what he said, but in a sense that there was nothing that could be made workable under this bill.

All the bill requires is that offenders have to pay for their court costs, pay for the crimes and destruction that they do against people's property.

Many of us, when we grew up, we knew that if we did something wrong, we would have to pay the price regardless.

I remember a Mr. Pillsbury in my home town who had an awfully nice plum tree and my mother said to me, if you steal anymore of his plums off that tree, you are going to get the

cutter stick. If anyone in this House ever grew up in a mill town, they know what the cutter stick is. The cutter stick is about three feet long and probably a quarter of an inch thick and probably a couple of inches wide that the girls use in the paper mill when they can't reach the long paper and they pat it down. I know that in our society today, there are a lot of young people that don't know what the cutter stick is, and I think probably — and I am not blaming them, I am blaming their parents — I think their parents know what the cutter stick was — I knew if I took Mr. Pillsbury's plums, I would get the cutter stick. Many times, I did do it but I got the cutter stick. So, we have to weigh these things out. If we do things wrong, we know we have to pay.

If you go down main street here in Augusta, I don't know the name of the main street but whatever it is, and you go a hundred miles an hour, you have to expect to pay the consequences. When young or elderly people or anyone destroys other people's property, they should be made liable so the victims could have some kind of restitution.

Those people who have nothing is a situation of 'have nothing, got nothing, give nothing,' that is understandable and I can sympathize with that. You can't get something out of someone who doesn't have anything, but I think the moral obligation of this bill will go a long way by saying to the parents, if you allow your children to do this type of vandalism, to not know where they are, then you have a responsibility to society to foot the bill. I will tell you my friends that if the parents thought they had to pay for a lot of the damage that their young people did, they would know where they were at night and don't you think they wouldn't.

Our system has turned so that we have encouraged people to do these things. We have stopped the law and order. We have allowed our society that "if you do unto others, we will forgive you." I am all done compromising. I have compromised and I have given in and really all a compromise is, is for you to give in.

I say we should give this bill a good look. We should do something with the bill, try to keep it alive. I am sure many educated people in this House, more so than myself, could come up with something to help those people, even if we had to send it back to the committee, because we have intelligent people there. They know the problems and I know that you are going to hear the court side of it, how it is going to be hard to enforce. You know, everything we do in our society today is hard to enforce. We don't have enough police officers, we don't have enough jails, we don't have enough of this and we don't have enough of that — well, that is the society that we live in.

I would ask the members of this House to consider this bill very carefully, to read it over, and I will admit that there are flaws in this bill.

Mr. Speaker, when the vote is taken, I would request the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Wiscasset, Mr. Stetson.

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The majority of the committee felt that this measure was completely unworkable, unenforceable and that we have enough unworkable, unenforceable laws on the books as it is.

I would like to address one question to the gentleman from Westbrook. Although he got the cutter stick, did he ever pay for the plums?

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I want to say at the onset that I am certainly not opposed to restitution, but that is not the real problem with this particular bill. The problem is, as the committee saw it, that it requires payment of prosecution in court costs. The problem is that it would require a very elaborate collection system that would cost much more than ever would be col-

lected or realized. Courts now, of course, can require restitution to the victim, and I support this wholeheartedly. We are dealing with several pieces of legislation along these lines, but this particular bill just would not be workable, it would require a very sophisticated collection system, and it would never pay for itself.

I would hope that you would support the majority report on this.

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

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

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: To me, this is the best piece of legislation I have seen in years, and if we do pass this, I think we would put a lot of lawyers out of business.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I did sign the "Ought to Pass" Report for many reasons. I do have to agree with the previous speaker that in essence this is one of the best pieces of legislation we have had here in a long time.

What we would be doing with this is tackling the problem at the root. I don't believe I have ever seen as good a Statement of Fact as is stated under this bill. Whoever wrote it did an excellent job.

What is asked by this bill is to do something which the judges and the courts don't have the guts to do. They have all the facts and they are so kind at heart that they leave all these criminals out on the streets or return them back with the great vision that they are going to be rehabilitated. Well, they won't be rehabilitated.

On the second page, the top paragraph, it clearly states that it is about time that we shifted the burden from the taxpayer over to the one that does commit the crimes, that they do make restitution. There are cases where monetary restitution will never repay for the harm done by these people.

I have always believed that the most deterrent factor in getting these criminals to stop whatever they are doing is by putting them to work. They put them in the jail and they say there is no work. There should be some work; there is some work. One idea is to make them dig a trench that is not needed — if nothing else, psychologically they will get the word — then refill it. If that doesn't do it, next time get them to do it over again. Get them to do it where there are rocks and all kinds of things.

We have a certain amount of compassion, but compassion can only extend so far and so long.

Sure, there is a report here all in favor of "Ought Not to Pass" — well, who is it? It is peers protecting their own peers; the judges protecting the lawyers and the lawyers protecting the judges, that is what it is. It is about time we tell the judges that we want mandatory sentences in this state and not leave it to their discretion. I wouldn't leave many things to their discretion, at least some of them. We have a terrific amount of people in there who do a tremendous job, but I think they are as human as we are. They have to be told to do something or else they don't do it.

I don't see where I should have any amount of compassion whatsoever for this bill or the criminals who hurt our people. We are subjected to it down our way and the farther down south you go here in the State of Maine, this is getting to be a ridiculous situation.

I sincerely hope that whatever you do, you will think about this. I think it is a workable bill. Somehow or other, the Judiciary always seems to either make things work or finds

some way to get around it so it will work or not work. Let them figure this one out, if this is the problem. I submit to you that we should give it good consideration, let it go to second reading and let the ones who are up here and say this isn't a workable bill to present some amendments to make it workable. This is something that should have been here a long time ago. I wholeheartedly support it and I hope that in your best judgment you will vote against the "Ought Not to Pass" Report.

The SPEAKER: The pending question is on the motion of the gentleman from Saco, Mr. Hobbins, that the House accept the Majority "Ought Not to Pass" Report in concurrence.

The Chair recognizes the gentleman from Fort Kent, Mr. Barry.

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

ROLL CALL

YEA—Aloupis, Bachrach, Baker, Beaulieu, Benoit, Berry, Birt, Bordeaux, Boudreau, Bowden, Brennerman, Brodeur, Brown, K. L., Brown, K. C., Bunker, Carter, F., Cloutier, Connolly, Cox, Damren, Davies, Doukas, Drinkwater, Elias, Fowlie, Garsoe, Gavett, Gowen, Gray, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, J. Albert, Joyce, Kane, Kany, Leonard, Lizotte, Lowe, Lund, Mahany, Marshall, Masterman, Masterton, Matthews, McMahon, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, A., Norris, Paul, Peltier, Rolde, Roope, Sewall, Silsby, Simon, Small, Soulas, Sprowl, Stetson, Stover, Tarbell, Theriault, Tierney, Tozier, Tuttle, Vose, Whittemore.

NAY—Austin, Blodgett, Brannigan, Brown, A., Brown, D., Call, Carrier, Carroll, Carter, D., Chonko, Churchill, Conary, Cunningham, Curtis, Dellert, Dexter, Diamond, Dow, Dudley, Dutremble, D., Dutremble, L., Fenlason, Fillmore, Gillis, Gould, Gwadnosky, Hall, Hanson, Hickey, Hunter, Jacques, P., Kiesman, Laffin, Lancaster, LaPlante, Leighton, Lewis, Locke, Lougee, MacBride, MacEachern, Martin, A., McHenry, McKean, Nelson, M., Nelson, N., Paradis, Payne, Pearson, Peterson, Post, Prescott, Reeves, J., Rollins, Sherburne, Smith, Strout, Studley, Torrey, Twitchell, Wentworth.

ABSENT—Berube, Davis, Jacques, E., Kelleher, Maxwell, Reeves, P., Vincent, Violette, Wyman, The Speaker.

PAIRED—Barry and Wood.

Yes, 77; No, 62; Absent, 9; Paired, 2.

The SPEAKER: Seventy-seven having voted in the affirmative and sixty-two in the negative, with nine being absent and two paired, the Majority "Ought Not to Pass" Report is accepted in concurrence.

Non-Concurrent Matter Tabled and Assigned

Bill "An Act to Permit the State Auditor to Report Certain Suspected Improper Transactions to the Attorney General's Office" (H. P. 196) (L. D. 245) on which the Majority "Ought to Pass" as Amended by Committee Amendment "A" (H-91) Report of the Committee on State Government was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-91) in the House on March 16, 1979.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on State Government read and accepted in non-concurrence.

In the House:

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

Mrs. KANY: Mr. Speaker, I move that we recede and concur and would ask someone if they would be kind enough to table this one day since the sponsor is absent.

Thereupon, on motion of Mr. Tierney of

Lisbon Falls, tabled pending the motion of Mrs. Kany of Waterville to recede and concur and tomorrow assigned.

At this point, Miss Darlene Yeaton, Farm Bureau Queen, was escorted to the rostrum by the Sergeant-at-Arms.

Miss YEATON: On behalf of the Maine Farm Bureau, I am very honored to present this commodity basket of Maine commodities.

The SPEAKER: Thank you very much; I really appreciate it. I am sure that the members of the Legislature will be going through it if it stays in my office, so I may just keep it here. Thank you very much. (Applause)

Petitions, Bills and Resolves Requiring Reference

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

Aging, Retirement and Veterans

Bill "An Act to Provide an Additional Retirement Fund for Public School Coaches" (H. P. 1072) (Presented by Mrs. Prescott of Hampden) (Cosponsor: Mr. Gwadosky of Fairfield)

Bill "An Act to Permit Divorced Persons who are Married More than 15 years to Claim Retirement Benefits" (H. P. 1073) (Presented by Mrs. Nelson of Portland) (Cosponsor: Mr. Tierney of Lisbon)

(Ordered Printed)

Sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act to Appropriate Funds for the Nursing Home Ombudsman Program" (H. P. 1074) (Presented by Mrs. Prescott of Hampden)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act to Permit the Attorney General to Retain Amounts Recovered for Costs of Investigation and Suit" (H. P. 1075) (Presented by Mr. Howe of South Portland)

Committee on Business Legislation was suggested.

On motion of Mr. Howe of South Portland, was referred to the Committee on State Government, ordered printed and sent up for concurrence.

Business Legislation

Bill "An Act to Exempt Out-of-State Technical and Vocational Schools from Registration under the Transient Sellers Law" (H. P. 1076) (Presented by Mr. Howe of South Portland)

Bill "An Act to Improve Private Remedies for Violation of the Antitrust Laws" (H. P. 1077) (Presented by Mr. Howe of South Portland) (Cosponsor: Mr. Stetson of Wiscasset)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act to Assure the Continuance of Privately Operated Schools for the Handicapped" (H. P. 1078) (Presented by Mr. Sherburne of Dexter) (Cosponsors: Mrs. Locke of Sebect and Mr. Hall of Sangerville)

Bill "An Act to Establish an Energy Efficient School Year" (H. P. 1079) (Presented by Mr. Cunningham of New Gloucester)

Bill "An Act to Better Reflect True Education Costs by Reducing Transportation Reimbursement to School Units for Noninstructional Purposes" (H. P. 1080) (Presented by Mr. Sherburne of Dexter) (Cosponsor: Mr. Hall of Sangerville)

Bill "An Act Altering the Organization and Governance of Community School Districts" (H. P. 1081) (Presented by Mr. Torrey of Poland)

Bill "An Act to Require that all Teachers have at Least 9 Credit Hours in Special Education" (H. P. 1082) (Presented by Mr. Wyman of Pittsfield)

(Ordered Printed)

Sent up for concurrence.

Local and County Government

Bill "An Act to Create a Special Commission on State Mandates Imposed on Local Units" (H. P. 1083) (Presented by Mrs. Post of Owl's Head) (Cosponsors: Mr. Rolde of York, Mrs. Dammren of Belgrade, and Mr. Wood of Sanford)

Committee on Education was suggested.

On motion of Mr. Connolly of Portland, was referred to the Committee on Local and County Government, ordered printed and sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Require Commercial Timber Harvesters to Replace Destroyed Trees" (H. P. 1084) (Presented by Mr. Elias of Madison) (Cosponsor: Mr. Davies of Orono)

Bill "An Act to Create the Office of Appropriate Technology and Native Resources" (H. P. 1085) (Presented by Mr. Wood of Sanford)

(Ordered Printed)

Sent up for concurrence.

Later Today Assigned

Bill "An Act Concerning Interdepartmental Coordination of Services to Children and Families" (H. P. 1086) (Presented by Mrs. Nelson of Portland) (Cosponsors: Mrs. Payne of Portland and Ms. Lund of Augusta)

Committee on Health and Institutional Services was suggested.

On motion of Mrs. Kany of Waterville, tabled pending reference and later today assigned.

Health and Institutional Services

Bill "An Act to Provide a Grant to Community Health Services, Inc. for a Long-term Care Demonstration Project" (H. P. 1087) (Presented by Mrs. Nelson of Portland)

Bill "An Act Concerning Transfer of Assets for the Purpose of Qualifying for Medical Assistance" (H. P. 1088) (Presented by Mrs. Kany of Waterville)

Bill "An Act to Provide for Licensing and Regulation of Adult Foster Homes" (H. P. 1089) (Presented by Mrs. Prescott of Hampden) (Cosponsor: Mr. Elias of Madison)

(Ordered Printed)

Sent up for concurrence.

Later Today Assigned

Bill "An Act to Allow Assignment of Personnel in Emergency Situations" (H. P. 1090) (Presented by Mr. Stetson of Wiscasset)

Committee on Health and Institutional Services was suggested.

On motion of Mrs. Kany of Waterville, tabled pending reference and later today assigned.

Judiciary

Bill "An Act to Require that Most Hearings and Records Concerning Juvenile Crimes be Open to the Public" (H. P. 1091) (Presented by Mrs. Payne of Portland) (Cosponsors: Mr. Reeves of Newport, Mr. Joyce of Portland, and Mr. Blodgett of Waldoboro)

Bill "An Act Relating to Criminal Appeals and Search Warrants" (H. P. 1092) (Presented by Mr. Stetson of Wiscasset)

(Ordered Printed)

Sent up for concurrence.

Later Today Assigned

Bill "An Act Relating to Retirement Benefits of Superior Court Employees" (H. P. 1093) (Presented by Mrs. Nelson of Portland)

Committee on Judiciary was suggested.

On motion of Mrs. Nelson of Portland, tabled pending reference and later today assigned.

Judiciary cont'd.

Bill "An Act Concerning Availability of Remedy under Laws Relating to Landlord-tenant Relations" (H. P. 1094) (Presented by Mr. Carrier of Westbrook)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act to Amend the Municipal Public Employees Labor Relating Act" (H. P. 1095) (Presented by Mr. Wyman of Pittsfield)

Bill "An Act to Amend Certain Provisions of the Employment Security Law" (H. P. 1096) (Presented by Mr. Tuttle of Sanford) (Cosponsors: Mr. Doukas of Portland, Mr. Nadeau of Lewiston, and Mr. Lizotte of Biddeford)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act to Clarify Home Rule Authority" (H. P. 1097) (Presented by Mr. Jalbert of Lewiston) (Cosponsors: Mr. Simon of Lewiston, Mr. Nadeau of Lewiston, and Mrs. Berube of Lewiston) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)

Sent up for concurrence.

Public Utilities

Bill "An Act to Prohibit the Minimum Charge on Unused Buildings by Electric Power Companies" (H. P. 1098) (Presented by Mr. Laffin of Westbrook)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act Relating to Qualified Bidders for the Bureau of Purchases" (H. P. 1099) (Presented by Mrs. Lewis of Auburn)

Bill "An Act Relating to the Management of the Department of Attorney General" (H. P. 1100) (Presented by Mr. Joyce of Portland)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act to Establish an Excise Tax on Timber Harvest" (H. P. 1101) (Presented by Mr. Brenerman of Portland) (Cosponsor: Mr. Davies of Orono)

Bill "An Act to Exempt from the Maine Income Tax All Disability Payments Under the State Retirement System" (H. P. 1102) (Presented by Mrs. Locke of Sebect)

Bill "An Act to Amend the Jobs and Investment Tax Credit Law" (H. P. 1103) (Presented by Mr. Marshall of Millinocket) (Cosponsors: Mr. Kiesman of Fryeburg and Miss Brown of Bethel)

Bill "An Act to Require Payment of Taxes on Timberland Repossessed by the Maine Guarantee Authority" (H. P. 1104) (Presented by Mr. Austin of Bingham)

Bill "An Act to Exempt Maine State Retirement Pensions from the State Income Tax" (H. P. 1105) (Presented by Mrs. Locke of Sebect)

Bill "An Act to Provide an Investment Tax Credit" (H. P. 1106) (Presented by Mrs. Post of Owl's Head)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act Relating to Winter Driving Skills Under the Motor Vehicle Laws" (H. P. 1107) (Presented by Mr. Cunningham of New Gloucester)

Bill "An Act to Permit Conventional Registration of Institutional Vehicles" (H. P. 1108) (Presented by Mrs. Kany of Waterville)

Bill "An Act Concerning State Highways and Parking on State Controlled Property" (H. P. 1109) (Presented by Mr. McPherson of Eliot)

(Ordered Printed)

Sent up for concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 1111) recognizing that: the South Portland Red Riots, ably led by Coach Bob Brown and

associates, won the State Schoolboy Class A Basketball Championship on March 17, 1979 at Bangor, Maine and established a new record of scored points for State Class A competition.

Presented by Mr. Cloutier of South Portland. (Cosponsors: Ms. Benoit of South Portland, Mr. Kane of South Portland, and Sen. Gill of Cumberland)

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

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Frank Wood of Sanford be excused March 20, March 21, and March 22, 1979 for legislative business.

House Reports of Committees

Leave to Withdraw

Mr. Davies from the Committee on Education on Bill "An Act to Extend the Educational Programs at the Maine Youth Center" (H. P. 489) (L. D. 618) reporting "Leave to Withdraw"

The Report was read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Mrs. Masterton from the Committee on State Government on Bill "An Act to Provide for Art in Public Buildings and Other Facilities" (H. P. 171) (L. D. 222) reporting "Ought to Pass" in New Draft (H. P. 1071) (L. D. 1224)

Report was read and accepted, the New Draft read once and assigned for its second reading tomorrow.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-104) on Bill "An Act to Adjust Unemployment Benefits for Employees on Layoff who are Temporarily Recalled to Work by their Regular Employer" (H. P. 219) (L. D. 267)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Messrs. TUTTLE of Sanford

WYMAN of Pittsfield

Mrs. MARTIN of Brunswick

Mr. BAKER of Portland

Mrs. BEAULIEU of Portland

Mrs. LEWIS of Auburn

Mr. McHENRY of Madawaska

— 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. LOVELL of York

SUTTON of Oxford

— of the Senate.

Messrs. CUNNINGHAM of New Gloucester

FILLMORE of Freeport

DEXTER of Kingfield

— of the House.

Report were read.

On motion of Mr. Wyman of Pittsfield, tabled pending acceptance of either Report and specially assigned for Thursday, March 22.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-105) on Bill "An Act to Define Employer's Rights after Failure to File a Separation Report in Unemployment Compensation Cases" (H. P. 307) (L. D. 402)

Report was signed by the following members:

Messrs. SUTTON of Oxford

LOVELL of York

PRAY of Penobscot

— of the Senate.

Mr. WYMAN of Pittsfield

Mrs. MARTIN of Brunswick

Messrs. CUNNINGHAM of New Gloucester

TUTTLE of Sanford

Mrs. LEWIS of Auburn

Mr. BAKER of Portland

Mrs. BEAULIEU of Portland

Mr. McHENRY of Madawaska

— 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. FILLMORE of Freeport

DEXTER of Kingfield

— of the House.

Reports were read.

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

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

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

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

Mr. TARBELL: Mr. Speaker, before we act on that motion, I wonder if I could pose a question through the Chair to the House Chairman of the Committee and ask how this bill would change the current law, what the status of current law in this area is and how the bill would modify current law?

The SPEAKER: The gentleman from Bangor, Mr. Tarbell, has posed a question through the Chair to the gentleman from Pittsfield, Mr. Wyman, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I thought that someone might have a question on this.

The current law provides for a determination of overpayments on unemployment, dependent only on the receiving of the separation report from the employer. That is current law.

If you notice the committee amendment, you will notice that the words 'separation report' was crossed out and in its place 'revised deputy's decision.' The committee felt that it was much fairer to determine overpayment from the date of the deputy's decision than from the date which the report was received.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-105) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-102) on Bill "An Act to Amend the Requirements for Registration of Professional Foresters" (H. P. 82) (L. D. 93)

Report was signed by the following members:

Messrs. AULT of Kennebec

CHAPMAN of Sagadahoc

Ms. CLARK of Cumberland

— of the Senate.

Messrs. HOWE of South Portland

GWADOSKY of Fairfield

WHITTEMORE of Skowhegan

Miss ALOUPIS of Bangor

Messrs. BRANNIGAN of Portland

JACKSON of Yarmouth

SPROWL of Hope

— 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. D. DUTREMBLE of Biddeford

Miss BROWN of Bethel

— of the House.

Reports were read.

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

Mr. HOWE: Mr. Speaker, I move that we accept the Majority "Ought to Pass" Report.

Whereupon, Miss Brown of Bethel requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from South Portland, Mr. Howe, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

79 having voted in the affirmative and 16 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once. Committee Amendment "A" (H-102) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Allow Former Judges to Practice Criminal Law" (H. P. 465) (L. D. 587)

Report was signed by the following members:

Mr. COLLINS of Knox

Mrs. TRAFON of Androscoggin

Mr. DEVOE of Penobscot

— of the Senate.

Messrs. STETSON of Wiscasset

HOBBINS of Saco

CARRIER of Westbrook

Mrs. SEWALL of Newcastle

Mr. SILSBY of Ellsworth

Mr. GRAY of Rockland

Mr. SIMON of Lewiston

— of the House.

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

Report was signed by the following members:

Messrs. LAFFIN of Westbrook

JOYCE of Portland

— of the House.

Reports were read.

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

Mr. HOBBINS: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, moves that the Majority "Ought Not to Pass" Report be accepted.

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

Mr. KELLEHER: Mr. Speaker, I would like to have the House Chairman tell this House why we should accept the "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, has posed a question through the Chair to the gentleman from Saco, Mr. Hobbins, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. HOBBINS: Mr. Speaker and Members of the House: Excuse me if I sound under the weather, because I am.

The good gentleman is asking the question why we should accept the Majority "Ought Not to Pass" Report. As you look at L. D. 587, you will see that the good gentleman from Bangor is the sponsor of this particular piece of legislation.

Presently, under the existing law, an individual who is a retired judge is prohibited from practicing law if he accepts compensation in any civil or criminal matter that is before the state. It is a feeling that such a person acting as a counsellor or attorney to a person having an adverse interest to the state should not be able to collect retirement compensation and practice criminal law.

The individual has a choice whether or not in fact, first of all, to accept compensation. If he or she decides to accept compensation, that individual would be prohibited from practicing

criminal or civil law. If the person decides, for example, not to accept the compensation, then that individual is not precluded from practicing criminal or civil law once that person who is a justice decides to retire.

If I may throw the ball back into the other court, I would like to hear the reasons why this bill should become law.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, has posed a question through the Chair to the gentleman from Bangor, Mr. Kelleher, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I certainly do want to respond. If the good gentleman had been at the hearing the day that this bill was heard, perhaps my wisdom would have prevailed upon him to support the "Ought to Pass" Report.

In 1941, there was a law passed in the Maine Legislature that would prohibit members who sat on the court to go back and practice the only profession that they know, law, and the only reason this bill was passed is because in the late thirties, 1937 or 1938, there was a major scandal in this state involving one Treasurer of the State of Maine and other members of government. There was a fellow by the name of Pattengall, who had been a former member of the Supreme Court and the Chief Justice, who retired at the age of 70 because of retirement benefits that were set up in the State of Maine in 1911, and Mr. Pattengall, a man of renown reputation as a criminal lawyer, was hired by a certain gentleman who was then being prosecuted by the State of Maine for malfeasance in office to represent him.

The defendant was justifiably found guilty and paid for his crime against the state, but the animosity that developed because of a retired justice of the Supreme Court doing what he rightfully was trained for in practicing law, the animosity towards Mr. Pattengall developed in a situation that really a private and special law was passed to prevent this gentleman and others like him from practicing law.

I am going to read some testimony that I got out of the Legislative Record, and it may take a few minutes. I am really not one who likes to take much time on the floor of the House discussing the matter, but this does have some interest, I believe, to you. These remarks are made by one Mr. McLaughlin, who was a distinguished member of this House from the City of Portland and served for something like 25 years, and I will also be commenting on the remarks of one Peter Mills, who I am sure most of you know, the former Attorney General for the federal government here in the state for many years during the Eisenhower administration and during the Nixon administration.

In 1909, the legislature, during Governor Fernald's administration, passed an act providing that when justices of the Supreme or Superior Court retired, they would receive half pay, one half of their salaries for the rest of their lives.

In 1911, the Democratic Party carried the State of Maine and Governor Plaster was elected, and at that time, all the justices of the Supreme Court were Republicans except one, and the Democrat was a fellow by the name of George Hurd.

To quote Judge McLaughlin — this is the way they played politics in those days. In other words, the party in power put the people that belonged to their party in highly respected areas of the government, and I must suggest that it is no different today with the Democrats in power. I suspect that we are going to be putting Democrats in high positions of power — so be it; that is the ball game and we all know that there are nine innings in a ball game. We are in the first inning of the Brennan administration and we have got eight more to go.

Some of the brilliant Democrats in power wanted to get rid of those old justices on the Supreme Court, not because they were Republicans, I am sure, who were Republicans, so they

passed a law so that when justices reached the age of 70 years, they could have one year in which to retire and if they refused, they were to receive, as the act was then, half pay for the rest of their lives. But if they saw fit to stay on and completed the term, they got no retirement after the year of 70.

Justice Peabody died in 1911 and a Democrat was appointed in his place, and Justice Emery saw fit to retire and another Democrat was appointed in his place. I guess Governor Plaster's game plan was the same as the Republican's — reward your friends and relatives — and two more justices were later put on, so it gave the Democrats the edge of the majority on the committee.

Later the law was changed as to the amount these justices were to receive. I think the law reads now, and I am quoting Judge McLaughlin again, that they would get three quarters of their pay.

When a justice reached the age of 70, the statute provided that if he retired when he reached the age of 70 and before he was 71, he would receive three quarters of his pay, and this is exactly what Chief Justice Pattengall did. When he reached his 70th year, and seeing that after a long and distinguished career on the bench, if retired before he was 71, he would not forfeit his retirement and he would get three-quarters pay. Judge Pattengall did exactly that and he fulfilled his obligation in the retirement system. The contract that was given to him, but because he has chosen to represent a fellow that was in....

The SPEAKER: Would the members in the back of the hall please refrain from conversations.

Mr. KELLEHER: Thank you, Mr. Speaker. I need all the help I can get because this committee report is so lopsided.

Ladies and gentlemen, it is just a fair method of allowing people who are trained in the only profession they know to practice law.

The only reason I introduced this bill, I had met a gentleman who is retiring from the bench that I have the highest respect for, and I said to this man in January, "I would assume now that you will be going back to practicing law because you had a very distinguished career in it." The gentleman said to me, "I can't practice law because of an act that was passed in 1941." And I would like to restate here, as I stated before the Committee, that in no way did this member of the bench ask me to submit this legislation. It just raised a point of interest to me in looking back through the Legislative Records to find how the law came about to begin with, and that is why this document is here today.

I would sincerely hope that you would oppose the motion to accept the "Ought Not to Pass," simply to give a man or men or women the right, after they have served their terms on the bench in this state, if they so choose to go back and they have all the faculties that are necessary to prepare themselves and appear before a court of law that they be given that opportunity.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Saco, Mr. Hobbins, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

58 having voted in the affirmative and 55 having voted in the negative, the motion did prevail.

Sent up for concurrence.

Consent Calendar First Day

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

(S. P. 202) (L. D. 534) Bill "An Act to Establish a Sign on the Maine Turnpike for Lost

Valley" Committee on Transportation reporting "Ought to Pass"

No objections being noted, the above item was ordered to appear on the Consent Calendar on March 21, under listing of Second Day.

Passed to be Engrossed Amended Bills

Bill "An Act to Establish more Convenient Hours to Permit Easier Access to Small Claims Court" (H. P. 302) (L. D. 397) (C. "A" H-85)

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

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

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

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I am going to make a motion this morning, and before I do, I would like to make a few brief comments on why I oppose the bill in its present structure.

I might back up a little bit and tell you why I was a little concerned yesterday, having coming in here at nine-thirty yesterday morning and seeing the bill that was passed by the committee on Friday. The committee, in their wisdom, amended it and when it was moved yesterday morning, we didn't even have the committee amendment before us, and at that time I asked that it be tabled until later in the day. After looking the committee amendment over, I feel that there are some problems I have with the committee amendment delegating the authority back to the local administrative unit.

In as much as hearing on the news last night that this is not at this time an emergency situation concerning the Portland area delegation, and I sympathize with their feelings on this and I, too, have some reservations maybe about the State Principal's Association, however, I feel that there should be a little bit more work done on this.

My motion is going to be, if it can be, Mr. Speaker, I would move that this bill be recommitted to the Committee on Education.

The SPEAKER: The gentleman from Corinth, Mr. Strout, moves that this bill be recommitted to the Committee on Education.

The gentleman may proceed.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: The reason for my doing that is, it is my understanding that there are only two sports that have really gotten into the New England competition in the past, and that is basketball and hockey. Those two sports, in my opinion, there is no way they could enter the New England's at the present time, and as I see the bill, it says that it would self-destruct as of July 1, 1980.

It would appear to me that if we could send this back to the committee and the committee could have a little more time to study this, when it does come back if there are problems with the State Principal's Association, then let's do it in, I guess you might say in a mild manner, rather than trying to rush something through here when a lot of us haven't had a chance to talk to their local school boards and give us a little more time. That is why I moved to recommit it.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I would oppose the motion to recommit the bill to the Committee on Education at this point.

I would point out to the members of the

House that it was an unanimous report of committee, that we felt that there was an emergency situation that existed right away due to the state basketball championship, but that we also felt that even were the state basketball champs not able to participate in the New England Tournament, that there were two other sports in particular, hockey, as the gentleman has mentioned, and also track competition. If you would notice in the committee amendment, we did put a self-destruct clause on the bill, that the gentleman did speak to, so that it would go out of effect on July 1, 1980.

Another point that wasn't made clear yesterday when this matter was discussed in the caucuses of the two parties, that were this bill to become law, it would be the intention of the committee to come out with a study order to get into the whole situation of governance procedures in the State Principals' Association.

One of the things that particularly irked me about this situation is that time after time after time representatives of the State Principals' Association will come before the Education Committee and take positions on various pieces of legislation, urging us to support or not to support bills with the arguments that it is a local control issue, the decision that this bill addresses should be made at the local level. I would contend that this particular bill, as it has been amended by the committee, is the ultimate in local control. It would allow local school boards, the local school committees to make a decision if they feel that team from that particular community should participate in the New England tournament, then that community should make that decision and not the State Principals' Association. It seems to me to be a little bit contradictory.

I understand that there is a move afoot by the State Principals' Association to have this bill torpedoed in the other body. We will see what happens to that.

At this point in time, I would hope that you would defeat the motion to recommit and leave our options open.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I am inclined at all times to go along pretty much with majority reports, particularly when the chairman of the committee speaks as the gentleman from Portland, Mr. Connolly, just spoke.

I have another motive, however, and I would like to ask someone to answer. I want to find a way to get — and I am going back a few semesters but my memory is fresh, I have been kind of quiet as far as the State Principals' Association is concerned, but I want to find a way and I would like to ask any member to answer if they can, how can I get my teeth into the State Principals' Association? Do I vote on this and then possibly an order later on? Is that the answer? Because that is what I want to get at. I want to get at my friends.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: A couple of years ago, maybe it was one year ago, I had a nephew that was doing quite well in swimming. He had a couple of state records and we wanted very badly in the family to have him to be able to compete on the New England level and we were told his senior year, which is this year, he might not be able to do that because they were going to pull out of their affiliation with the New England group.

We went to the school board, his father did, and I was sitting in the audience, and asked the school board to intercede, he being a proud father and everything, it was very understandable. The meeting went on and the principal at our high school in Old Town was very sympathetic and not arrogant or anything, and he explained and I can't remember all the details of it but it wasn't as simple as it sounded. It was a

matter of you had to belong to the association, I think, for everything or for nothing.

We were willing to pay for the boy's way to go to compete in the New England meets. That was fine and we had enough money to do that, but you just couldn't do that without belonging to the whole association. So, what we thought was something that was fairly simple turned out to be a little more complex than at first blush.

I have misgivings about this bill, although I think the intentions are pure. I would like to pose a question through the Chair to one of the sponsors or to Representative Connolly and ask, does the emergency situation still exist?

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

The Chair recognizes that gentleman.

Mr. CONNOLLY: Mr. Speaker, Members of the House: In response to the question, it is my understanding that an emergency situation does exist. I believe it has to do with the track competition and it is also my understanding that the hockey situation would warrant this particular legislation.

It should be understood that were a team to contravene the ruling of the State Principals' Association and decide to participate in a New England tournament, without this legislation, the State Principals' Association would then be in a position to impose sanctions upon the offending school. When the committee asked the representatives of the Principals' Association at the hearing on Friday what those sanctions would be, they wouldn't answer but they did indicate that suspension would be under consideration for the school.

While I am on my feet, in response to the question posed by Representative Jalbert — the way to do what he would like to do and what I would like to do would be to oppose the motion to recommit, to get this passed and then we will come up with a study order and we will go at it.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Portland, Mr. Connolly, has put his finger on some of the basic problems with the State Principals' Association's control of athletics in the state and that is the question of power and the question of sanction.

I think many members of the committee were disturbed when we heard testimony on this bill but the vote to take Maine out of the New England's conducted within the State Principals' Association was done in a very minority basis. For example, there are 142 members of the State Principals' Association. Apparently, in taking this vote, there were only 43 who voted, less than a third. A reconsideration vote, and about 40 members voted, also failed by seven votes. So we felt that we couldn't find in the statutes any authority for the State Principals' Association power, so that is why we felt that we should return, at least on a temporary basis, the power and statutory authority to the municipalities in regard to athletics, because we were told and it was intimated very definitely that if any team in Maine were invited to a New England event, or any athlete for that matter, there would be sanctions leveled against that school.

It was also testified that there had been an attempt in the past to take control of the State Principals' Association over athletics, which they claim they didn't want, it was taken as a sort of a favor to the state and to form a Maine Interscholastic athletic board. Now, this fell apart, attempts to do this, because of again, a power struggle between the State Principals' Association and the Maine School Board Association.

I think it is time, really, to look into this.

There have been problems in the State Principals' Association in the past in regard to non-athletic matters and I think it is time now that we pass a bill like this, pass local control back to the schools, at least on a temporary basis, while we have a chance to study it. I think it is a reasonable approach and all of the members of the committee felt so and I hope you will too.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I agree with a lot of what the previous speaker said and I agree with a lot of what has been said here today.

My whole argument, I guess, is that the committee amendment never had a public hearing so that maybe some of these school superintendents across the state or people who are concerned here had a chance to discuss this. I think what we are asking for, maybe I am here alone, I don't know, but what we are asking for is that we have some time to look at a bill that might do what everybody wants to do. That is why I asked that it be recommitted.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to take so much time, but I would just like to clarify a statement that Representative Strout made.

We did have a full, three-hour hearing on this particular bill last Friday. The committee amendment is, in effect, the language change — we took one sentence out of the bill, we added the word 'interscholastic' and we went even further by putting a self-destruct clause into the bill. This whole issue had a very well attended public hearing last Friday and for someone to suggest otherwise, I think would be misleading.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Corinth, Mr. Strout, that L. D. 1117 be recommitted to the Committee on Education. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

25 having voted in the affirmative and 92 in the negative, the motion did not prevail.

The SPEAKER: The pending question before the House now is on passage to be engrossed.

Mr. Strout of Corinth requested a roll call.

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

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

The SPEAKER: The pending question before the House is on passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Birt, Blodgett, Boudreau, Bowden, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Brown, K. C.; Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Damren, Davis, Davis, Dexter, Diamond, Doukas, Dow, Drinkwater, Dudley, Dutremble, D.; Dutremble, L.; Elias, Fillmore, Fowlie, Gavett, Gillis, Gould, Gowen, Gray, Gwadosky, Hanson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Kisman, Laffin, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Martin, A.; Masterman, Master-ton, Matthews, McHenry, McKean, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Peltier, Post, Reeves, P.; Rolde, Rollins, Roope, Sewall,

Simon, Small, Soulas, Sprowl, Stetson, Stover, Studley, Tarbell, Theriault, Torrey, Tuttle, Twitchell, Vincent, Vose, Wentworth, Whittemore, Wyman.

NAY—Austin, Berry, Bordeaux, Brown, K. L.; Bunker, Call, Dellert, Fenlason, Lougee, Marshall, Morton, Peterson, Prescott, Reeves, J.; Sherburne, Silsby, Smith, Strout, Tierney, Tozier.

ABSENT—Berube, Garsoe, Hall, Jacques, E.; Lancaster, Mahany, Maxwell, McMahon, Violette, Wood.

Yes, 120; No, 20; Absent, 10.

The SPEAKER: One hundred and twenty having voted in the affirmative and twenty in the negative, with ten being absent, the Bill is passed to be engrossed.

Sent up for concurrence.

Constitutional Amendment Failed of Final Passage

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Purposes for the Meeting of the First Regular Session of the Legislature during December to Election of Constitutional Officers and Legislative Officers and to Provide for Senate Apportionment in 1983 (H. P. 288) (L. D. 348)

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

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: Prior to enactment of this measure, I would just like to point out and clarify a matter for the record for legislative intent, and that is that the word 'officers' of the Senate and of the House of Representatives which will be elected during the three days that the legislature convenes in December, pursuant to this Constitutional Amendment measure, that the word 'officers' does not include or preclude or prohibit or prevent political leadership from the majority and minority parties from also being elected and selected by the political parties of the House and the Senate at that time.

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

Mrs. KANY: Mr. Speaker and Members of the House: I just have to say to Representative Tarbell — prior to enactment, what do you mean? I hope we don't get the two-thirds required to pass this measure, and if in a division there appears to be two thirds, at that point, I plan to ask for a roll call and we will have a long discussion on this one.

The SPEAKER: The pending question is on final passage. This being a Constitutional Amendment, it requires a two-thirds vote of the members present and voting. All those in favor of this Resolution being finally passed, you will vote yes; those opposed will vote no.

A vote of the House was taken.

87 having voted in the affirmative and 47 having voted in the negative, and 87 being less than two-thirds, the Resolution failed of final passage.

Passed to Be Enacted

An Act to Repeal the Tax on Marine Worms (H. P. 62) (L. D. 70) (C. "A" H-82)

An Act Amending Certain Laws Relating to the Packing of Sardines (H. P. 129) (L. D. 140) (C. "A" H-81)

An Act to Revise the Service Charge for Local Vehicle Registration Agents (H. P. 147) (L. D. 150) (C. "A" H-54)

An Act to Require Personnel Files to Include Medical Records and Nurses' Station Notes (H. P. 139) (L. D. 158) (S. "A" S-22 to C. "A" H-41)

An Act to Amend the Duties of the Commissioner of Educational and Cultural Services Relating to Bilingual Education (H. P. 182) (L. D. 232) (C. "A" H-87)

An Act to Revise the Podiatric Practice Act (H. P. 235) (L. D. 281) (H. "A" H-84; C. "A" H-76)

An Act to Transfer Jury Commissioners' Functions to Clerks of Courts and Permit Grand Jury Terms to be Set by Order of the Chief Justice (H. P. 280) (L. D. 358)

An Act Relating to Inspection by the State Fire Marshal (H. P. 438) (L. D. 555)

An Act to Clarify the Meaning of "the Prevention of Fire" under the Public Safety Statutes (H. P. 440) (L. D. 557)

An Act to Expand the Meaning of the Term "Exits" under the Public Safety Laws (H. P. 441) (L. D. 558)

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

Orders of the Day

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

Bill, "An Act Relating to Fatal Motor Vehicle Accidents" (H. P. 459) (L. D. 572)

Tabled—March 19, 1979 by Mr. Carrier of Westbrook.

Pending—Adoption of Committee Amendment "A" (H-103)

On motion of Mr. Hobbins of Saco, Committee Amendment "A" was indefinitely postponed.

The Bill was assigned for second reading to tomorrow.

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

Bill "An Act to Amend the Representation of Towns on Community Schools Districts" (S. P. 93) (L. D. 179)

Tabled—March 19, 1979 by Mr. Connolly of Portland.

Pending—Passage to be Engrossed.

On motion of Mr. LaPlante of Sabattus, retabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act Concerning Interdepartmental Coordination of Services to Children and Families" (H. P. 1086) which was tabled earlier in the day pending reference.

On motion of Mrs. Prescott of Hampden, was referred to the Committee on Health and Institutional Services, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Allow Assignment of Personnel in Emergency Situations," (H. P. 1090) which was tabled earlier in the day pending reference.

On motion of Mrs. Prescott of Hampden, was referred to the Committee on State Government, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act Relating to Retirement Benefits of Superior Court Employees" (H. P. 1093) which was tabled earlier in the day pending reference.

On motion of Mrs. Nelson of Portland, was referred to the Committee on Aging, Retirement and Veterans, ordered printed and sent up for concurrence.

(Off Record Remarks)

The SPEAKER: The Chair would like to note that on L. D. 642, the official vote should have been announced as: Yes, 77; No, 62, with two members pairing.

On motion of Mr. Garsoe of Cumberland, adjourned until nine-thirty o'clock tomorrow morning.