# 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

Wednesday, January 24, 1979

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

Prayer by the Reverend Howell Lind of the Winthrop Street Universalist Church, Augusta.

Reverend LIND: Sustain the spirit of life. We invoke the blessings of life upon these men and women as they prepare to conduct the business of this State. Grant them insight and understanding, moderation and patience, and grant to them an awareness of the very real needs of the people they represent. As we stand at the beginning of this session, may we all grow in the knowledge and purpose of our gathering, that these dedicated men and women meet to be of service to others; may their actions achieve this desire. In the spirit of service have they gathered, and in this spirit do we pray. Amen.

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The journal of yesterday was read and approved.

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### Papers from the Senate

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

George Stevenson, who guided Gorham High School to two state soccer titles, has been selected New England Soccer Coach of the Year by the National Soccer Coaches Association of America. (S. P. 70)

Came from the Senate, Read and Passed.

In the House, the Order was Read and Passed in concurrence.

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

Kirk Butterfield, fullback of the Gorham High School Championship Soccer Team, has been selected by the National Soccer Coaches Association of America to its All-American team (S. P. 71)

Came from the Senate, Read and Passed.

In the House, the Order was Read and Passed in concurrence.

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Bill "An Act to Provide Birth Certificates for Foreign-born Citizens Adopted by Maine Parents" (S. P. 72) (L. D. 126)

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

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

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Bill "An Act to Amend the Procedure of the State Board of Arbitration and Conciliation" (S. P. 73) (L. D. 127)

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

In the House, referred to the Committee on Labor in concurrence.

**Non-Concurrent Matter**

Bill "An Act to Establish the Maine State Indoor Air Act" (H. P. 99) (L. D. 125) which was referred to the Committee on Energy and Natural Resources in the House on January 18, 1979.

Came from the Senate, referred to the Committee on Health and Institutional Services in non-concurrence.

In the House: The House voted to recede and concur.

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**Non-Concurrent Matter**

Joint Order (H. P. 95) Relative to Mass Mailings by State Agencies to Legislators' Residences which was Read and Passed in the House on January 18, 1979.

Came from the Senate, Indefinitely Postponed in non-concurrence.

In the House:

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: This is the order presented by the gentleman from Portland, Mr. Vincent, serveral days ago in regard to the mailing practices of State agencies. Upon further examination, we discovered that Mr. Vincent had just touched the tip of the iceberg and the Legislative Council will be taking the matter up in greater detail at a later time and in a more comprehensive fashion than originally anticipated in the order. So with the agreement of Mr. Vincent, I move that the House recede and concur.

Thereupon, on motion of Mr. Tierney of Lisbon Falls, the House voted to recede and concur.

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### Petitions, Bills and Resolves Requiring Reference

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

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**Judiciary**

Bill "An Act Relating to Avoidance of Contracts Made on the Lord's Day" (H. P. 136) (Presented by Mrs. Damren of Belgrade)

(Ordered Printed)

Sent up for concurrence.

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**Legal Affairs**

RESOLVE, Authorizing Burton L. Lockhart or his Legal Representatives to bring Civil Action against the State of Maine (H. P. 137) (Presented by Mr. Bunker of Gouldsboro) (Cosponsor: Mr. Silsby of Ellsworth)

Committee on Judiciary was suggested.

On motion of Mr. Violette of Van Buren, referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

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**Judiciary**

Bill "An Act Relating to the Use of Force in Defense of Premises" (H. P. 138) (Presented by Mr. Drinkwater of Belfast) (Cosponsor: Mr. Lowe of Winterport)

(Ordered Printed)

Sent up for concurrence.

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**Labor**

Bill, "An Act to Require Personnel Files to Include Medical Records and Nurses' Station Notes" (H. P. 139) (Presented by Mrs. Mitchell of Vassalboro)

Bill, "An Act to Amend the Maine State Apprenticeship Council to State Apprenticeship and Training Council to Conform with Federal Recommendations under the Labor Laws" (H. P. 140) (Presented by Mr. MacEachern of Lincoln)

Bill "An Act to Provide Time for the Employee and Employer to Consider Payment of Compensation by Agreement" (H. P. 141) (Presented by Mr. Peltier of Houlton) (Cosponsor: Mr. McPherson of Eliot)

Bill "An Act Relating to Arbitration under the State Employees Labor Relations Act" (H. P. 142) (Presented by Mr. Birt of East Millinocket) (Cosponsors: Mr. Soulas of Bangor, Mr. Wyman of Pittsfield, Mrs. Mitchell of Vassalboro)

(Ordered Printed)

Sent up for concurrence.

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**Local and County Government**

Bill "An Act Concerning Expenditure of County Funds" (H. P. 143) (Presented by Miss Brown of Bethel)

Bill "An Act Concerning County Commissioners' Discretionary Powers Regarding Grants Placed in County Budgets" (H. P. 144) (Presented by Miss Brown of Bethel)

Bill "An Act Converting Mount Chase Plantation into the Town of Mount Chase" (Emergency) (H. P. 145) (Presented by Mr. Birt of East Millinocket)

(Ordered Printed)

Sent up for concurrence.

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**Taxation**

Bill "An Act to Provide a Trade-in Credit for Musical Instruments" (H. P. 146) (Presented by Mr. Jackson of Yarmouth) (Cosponsors: Mrs. Gowen of Standish, Mrs. Nelson of Portland, Mrs. Lewis of Auburn)

(Ordered Printed)

Sent up for concurrence.

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**Transportation**

Bill "An Act to Revise the Service Charge for Local Vehicle Registration Agents" (H. P. 147) (Presented by Mr. MacEachern of Lincoln)

Bill "An Act to Exempt Trucks Hauling Bulk Milk and Feed from Certain Weight Limits on State, County and Municipal Roads" (Emergency) (H. P. 148) (Presented by Mrs. Locke of Sebec) (Cosponsor: Mr. Torrey of Poland)

(Ordered Printed)

Sent up for concurrence.

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### Orders

On motion of Mr. Cox of Brewer, it was

ORDERED, that Marjorie Hutchings of Lincolnville be excused January 23 for health reasons;

AND BE IT FURTHER ORDERED, that Nancy Masterton of Cape Elizabeth be excused January 18 for personal reasons;

AND BE IT FURTHER ORDERED, that Frank Carter of Bangor be excused January 18 for personal reasons;

AND BE IT FURTHER ORDERED, that Donald Strout of East Corinth be excused for personal reasons;

AND BE IT FURTHER ORDERED, that Glen Torrey of Auburn be excused January 18 for personal reasons;

AND BE IT FURTHER ORDERED, that Joyce Lewis of Auburn be excused January 18 for personal reasons;

AND BE IT FURTHER ORDERED, that Sidney Maxwell of Jay be excused January 23 for personal reasons.

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On motion of Mr. LaPlante of Sabattus, the following Joint Order: (H. P. 135)

ORDERED, the Senate concurring, that the Joint Standing Committee on Local and County Government be directed to submit legislation revising the salaries of county officers and to bring out a Resolve or Resolves for Laying of the County Taxes for the year 1979.

The Order was Read and Passed and sent up for concurrence.

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### House Reports of Committees
### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Reinstate the Death Penalty" (H. P. 28) (L. D. 45)

Report was signed by the following members:

Messrs. COLLINS of Knox
DEVOE of Penobscot
Mrs. TRAFTON of Androscoggin
— of the Senate.
Mr. HOBBINS of Saco
Mrs. SEWALL of Newcastle
Messrs. HUGHES of Auburn
JOYCE of Portland
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
STETSON of Wiscasset
CARRIER of Westbrook
SILSBY of Ellsworth
GRAY of Rockland
— of the House.

Reports were read.

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

Mr. HOBBINS: Mr. Speaker, I urge the ac-

ceptance of the "Ought Not to Pass" Report and would speak to my motion.

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

The gentleman may proceed.

Mr. HOBBINS: Mr. Speaker and Members of the House: I understand and share the concerns of Maine people over violent crime. As a human being, I am outraged by the vicious and senseless nature of these crimes which are reported to us every day in the media, but I do not believe that the people of our state would be better served if we succumb to our outrage and abandon one of the basic tenets of our society, and that is our belief that the values of our civilized society are just.

I recognize that opponents of capital punishment, such as myself and seven other members of the Judiciary Committee are viewed in light of being soft on crime and sympathetic with the criminal. In response, I would quote from the statement of Lord Gardner during a debate in Parliament which led to the abolition of the death penalty in England. He said, "When we abolish the punishment for treason that you should be hanged and then cut down while still alive and then disembowled while still alive and then quartered, we did not abolish the punishment because we sympathized with traders but because we took the view that it would be punishment no longer consistent with our self-respect."

When the state puts a man or woman to death, it renders the judgment that that particular human being is utterly without a single redeeming quality. In essence, it says that a person to be executed is worthless, fit only for the disposition of being disposed with and not able to be rehabilitated.

Unlike many punishments that are administered, the death penalty is a very unique one. If administered in error, unlike other punishments where restitution can be made, there is no way the penalty of death can be undone.

An innocent man almost went to the gallows in 1867 in Maine for the gruesome, double murder slaying in West Auburn. In my research of this issue in the State Law Library, I discovered the following account of Luther J. Verrill's wrongful conviction, which undoubtedly hastened the abolishment of capital punishment in Maine which occurred 20 years after.

In that account it says of Verrill that Verrill was nowhere near the murder scene at the time of the slaying, and in court he said, "Every word is false and I can prove where I was and that I was not there." Eight witnesses paraded before the Androscoggin County jury and swore that the hapless Verrill did not leave his boarding house on the murder night. Yet, Verrill was found guilty on the testimony of an alleged accomplice, who also was sentenced to be hanged. Clifton Harris, a black, told of the going with Verrill to the farmhouse of a Mrs. Sarah Kinsley with the intent to commit robbery. He described in detail how Verrill killed Mrs. Kinsley, raped her body and then mangled it with an axe. Her horrified cries as she was attacked awakened a companion, a Miss Polly Caswell. She, too, was slain by Verrill, according to Harris.

A blustery northeast storm discouraged normal visitors to the lonely farmhouse. It was three days before the slayings were discovered.

The two defendants tried in vain to win freedom on exceptions to law and evidence at the trials. The State Supreme Court turned them down and both were finally taken to Thomaston to await their death.

Harris, who had expected to win his freedom by turning State's evidence, was bitterly disappointed that his death sentence was not overturned, and as the time for the hanging grew close, he sought out the warden and the minister, and he confessed that he, not Verrill, was the real murderer; yet the courts refused to set the verdict aside. Concern mounted in Lewiston and Auburn for the ill-starred Verrill, but a new motion was filed and the Supreme Court freed the man.

Statistics compiled by the State Law Library over more than a century failed to support deterrences also. Between 1860 and 1876, a period when Maine had the death penalty, its murder rate was the highest in the 19th Century. One of the telling points made by the opponents of the death penalty, as you will hear later on this morning, and back in 1876, was that deterrence will be affected if, in fact, the death penalty is instituted.

During the seven-year period from 1876 to 1883, when the penalty for death, capital punishment, was temporarily abolished, there were only 24 murders in the state, while in the four years after that, there were 32.

It was reasoned by our predecessors, who sat in this particular chamber back nearly a hundred years ago, that the possibility of a death sentence did not deter a murderer from committing that offense. This question of deterrence has probably been the subject of more studies in the past 40 years than any other aspect of our criminal justice system. The most comprehensive of these is an appendix to the Model Penal Code which found no correlation between murder rates in the existence or absence of the death penalty. This finally is reinforced in a report of the United Nations Committee, which concluded that a comparison of similar jurisdictions failed to demonstrate that capital punishment has a deterring effect to that of a lengthy imprisonment.

I fully recognize that studies can be invoked to support virtually any points of view. It is significant, however, to note that Mr. Justice Stuart, who wrote the opinions upholding the constitutionality of capital punishment, found the evidence of a deterring effect to be "inclusive." Whether one believes that the evidence is inclusive or that the deterrence argument has been disproven, the case for the death penalty clearly has not been made. As elected representatives of the people of this state, the resolution of this issue should depend upon our moral judgments as to what course of action is most consistent with the values of a civilized society.

In closing I will leave you with the following thought as put by one famous writer — "The trouble with capital punishment is that it reduces society to the level of the people it is executing." I urge you this morning to support my motion for the "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: Every time we talk about the death penalty, and we have talked about it now for three years, there is always that input of an innocent person being put to death. They have used that across this country until they have worn it out. That excuse is not only used in Maine, it is used in every state that you go to, and you want to know something, they never say a thing about the innocent little girl that has been murdered. They never say a thing about the seven-year-old boy that was brutally murdered by the mother's boyfriend. Yes, innocent people do die, but they are on the other end.

The Library of Congress has proven records that there have been 6,000 executions in this country and not one was put to death because they weren't guilty. I think that is very significant.

Of course, we have this group of people who go around, put their marching boots on and carry their signs opposing the death penalty. They were hoping, of course, that the first person to be executed would be two things— first, he would be poor and, second, he would be black. Well, when the Supreme Court ruled that the constitution of the death penalty was legal, they sure took a beating, because the person that was put to death was not poor, he was not black, he was a murderer and got just what he deserved. So then this group of Civil Liberties people that parade around the country had to put away all their banners, put away their marching boots and hope and pray that the next one would be what they wanted him to be.

I am convinced that the death penalty serves three purposes — it deters others from crime, and that is not my say-so, but a very educated person who has made a lifetime of studying murders. Second, it is needed to incapacitate dangerous people from getting out and committing the vicious crime again like we had in this state in Aroostook County where a convicted murderer escaped, raped two women. Luckily he was caught before he had a chance to murder them—right up here in the Town of Millinocket, not out in Chicago, not out in New York, not out in your other big cities, right here in the State of Maine.

Also, if we are going to continue to have the social service programs that we have, and I support those programs, then I say to you, I would rather spend it on an unwed mother with five children than housing a convicted murderer.

There are those who will say, well, they don't know what they are doing when they commit these vicious crimes against our people. Well, I will tell you, ladies and gentlemen, the courts of our land have been so lenient, they have protected the murderer. He has all the rights in the world, and it is the innocent people, their families can't even get social give-away programs; but the murderer is well protected under the law.

In a mere four years after the Supreme Court decided in mid 1972, by a 5 to 4 vote that the death penalty was cruel and unusual punishment, in the same way as being struck down by lightening is cruel and unusual, because the arbitrary discrimination of each legislator's bill. However, because of the Thurman vs. Georgia case, in U. S. 203408, on June 29, 1972, the Supreme Court did rule that the death penalty is constitutional and left it up to each individual state to set their own guidelines. The Supreme Court said, you run your states, you decide whether you want the death penalty or not, but if you do it, you are going to follow our guidelines. You are going to do it this way. Consequently, the states of Florida, Louisiana and Texas were ruled constitutional. The state of Georgia was ruled unconstitutional. So, what happened? Immediately state legislatures realized the problems of the vicious murderers who commit the vicious crimes against society had to be dealt with. What did they do? They turned around and followed the guidelines that were laid down by the Supreme Court, and one of the biggest ones is two trials so that no innocent person, especially in our day when we protect all these murderers, so that they will never be put to death for a crime that they didn't commit. The first trial is guilty or innocent. The second trial is to determine whether that person has committed a vicious crime that was bad enough to be sent to the death chamber.

All murders are not punishable by death. I read in the paper the other day about this creepy crawler who murdered 29 to 32 young boys. Well, the state of Illinois had demanded the death penalty. That is what the death penalty is for, these vicious crimes like the Sharon Tate murderers and those kind of people that commit vicious crimes against our people.

Right here in Portland on Munjoy Hill, a man 75 years old, worked hard all his life, was brutally murdered by two young punks that never did a day's work for a few pieces of silver — brutally murdered. A 79 year old woman in Falmouth was murdered in her bed — a 7 year old boy murdered by his mother's girl friend — a 12 year old girl by her stepfather.

Compassion, yes, we have compassion. This

legislature is one of the most compassionate groups of people that I have ever met. We help the poor, we help the sick and the shut-ins and we help the elderly with the programs that we have for them. We do all these things — why? Because it is the obligation of this State Legislature to protect the people and see that every child in this state has a chance to live like we live. When you take that child's life, are you saying he didn't have a right to live? Are you saying, I have a right to live but he doesn't; we will put his stepfather in prison. I say to you, you are wrong. That child had a right to live, and today, in less than 16 months, two young people are in the cemetery because of vicious crimes.

We had 32 murders in this state last year, and since 1969, that is nine years, it has doubled. In 1969, we had 17 murders; last year, we had 32. We have 5 already this year — brutal murders. I say to you, ladies and gentlemen, that a 90 year old woman who was murdered in this state has just as much right to live as you and I, and because you can't get along with your wife is no excuse to murder her; she still has a right to live, but the State of Maine has the right to say to each and every individual, we are going to see that you have that right to live, and if somebody takes your life, your daughter is raped and murdered, your wife is brutally raped and murdered, if a vicious person does that, the State of Maine will take your life — that is a protection.

I say to you, my friends, we will not be truly free as people until we can free ourselves of the threats of the vicious murders that take place in our state. Murder is so common today there is no more notoriety — it doesn't mean a thing. They even bury it on the back page in most papers. It is no more a sensational story to see a poor little kid murdered, a poor woman murdered. That is not sensational anymore; it is a way of life, we are living with it. We live with it every day. Whether it is in the city or in the suburbs, we are all potential targets for violence and for murder. No longer is it just restricted to the city. No longer are we as individuals protected under the law by having so many police that we are all protected. No, we don't have that anymore. We have nothing to deter a person.

When Richard Specht killed eight girls in Chicago, they couldn't do any more to him for killing the first one than when he killed the eighth one. He had a total of 1400 years in prison — now, isn't that nice. His sentence was 1400 years. If he had only killed one, he would have gotten life.

There is no way, of course, that we can reimburse the innocent victims of crime. There is no way that we can bring families and loved ones back into respect and dignity. We realize that. In many instances, the families are not even entitled to the same benefit. A $200,000 trial is nothing to spend on a convicted murderer. We do that here in Maine. We see that his rights are protected. He is protected under the law, but what has happened to the innocent people that are left. He has committed a vicious crime, the family is left without a father, a loved one gone — yes, innocent people are put to death and they are not the murderers.

Between 1935 and 1965, when the death penalty was nationwide and the number of murders remained fairly constant, between 7,000 and 9,000 a year, it was kind of like in limbo. The death penalty, however, in 1966, as you know, we did not have the death penalty in this state, and it rose three times, 22,500 homicides the first year.

There are those who say there is no deterrent with the death penalty. Well, I say to you, my friends, there is a deterrent, there is a deterrent because people are still going to rape people, they are still going to commit vicious crimes and rob people, but if they leave that person alive, the dignity of the woman will be restored, the money that they stole can be put back, but at least that woman or that little boy will be left alive, and that is what the death penalty is all about, to save lives.

The Supreme Court did rule that capital punishment — they could find no evidence that it was a deterrent, and that I will agree with, but we must remember, the Supreme Court sits on the bench from three to five hours. They don't have a blanket issue; they look at the whole picture, and that is why they ruled to leave it up to the states to determine, because as the states are chopped up into individual government bodies, that is their ruling to give, whether the death penalty will be imposed or not.

Now, I am not mad at anybody, but I want to correct and I want to save innocent people's lives. I promised several of my friends here this morning that I would not go on and speak for hours on the death penalty and I fully intend to honor that, but there is one thing that I would like to bring to your attention. Ladies and gentlemen, if we are going to live in a society, I am asking you to send this referendum out to the people, let people decide, as the Supreme Court has decided that it is up to us to make our own decision. I say to you as the governing body of this state, let the people of Maine decide. If the people of this state don't want the death penalty, they will tell us, and I can assure you that this issue will be dead in this state for generations to come. But when we have continuous murders and vicious crimes, let them decide, and if they say no, I will be so glad to join Representative Hobbins, I will be on his bandwagon and never again would I put the death penalty before the people of Maine.

He is not afraid of the death penalty, but I say to you, my friends, the people who count would be afraid of it. Send it out to the people and let the people say whether they want these vicious crimes to continue in this state.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I stand today to oppose the death penalty, to oppose it being sent out to the people of Maine. I will represent my people when I cast the vote against this bill, and I am sure you will represent yours.

Our law enforcement and judicial systems are human institutions. Police, prosecutors, judges and juries are people and as such are imperfect; therefore, that possibility of error exists. When an execution occurs, the state certainly has no power to reverse an error that might later be discovered. A pardon is very little comfort to the family of a wrongly executed person. It has no meaning when he is six feet under ground.

There is no firm evidence to support the contention that the death penalty is a deterrent to violent crimes. Maine's own history was spoken here today, and all I can add to that is, after they abolished the death penalty there were no murders for the following two years.

Now, both sides can find studies, and I agree with this, to support their views, but the volumes of contradictory evidence show at the very least that no firm case can be made to show that the death penalty is a deterrent.

The goals of our criminal justice system should be that of providing speedy and certain justice for both the wrongdoer and the victim of crime. The death penalty could result in providing something less than justice.

They talk of the 7 year old. I spent 20 years in law enforcement. Yes, I was there when the 7 year olds had to be picked up after being murdered. I have been there when the elderly and the young were murdered. I have forgotten a lot about those cases, but there is one case that I will tell you about. It takes a few minutes, but it is a case that I can't get out of my mind every year that this is brought up.

It was that warm summer night when two officers from my department brought the two 7-year-old girls that they found in the only open store in Monument Square, one-thirty in the morning. I know most of you do not realize that when a child is molested or raped, even at the age of 7, it is important to go into the very details of that crime.

As I faced those two girls with their torn clothing, one crying, the other too scared to cry, they told the story as they showed me the bag of candy that cost at least $2 and told me that they had gone to a movie and had fallen asleep, got up late, walked down the street and went into an apartment house complex. They described very vividly the man in that apartment house that took care of the elevators, that 60-year-old crippled grandfather. They then went through the minute details of him tearing the clothing from them.

There was a police officer crying in the room as I questioned these girls. Oh, how they felt, how I felt — Maine law does not go far enough. This man should be hung that night, and then justice would not even have collected its fair toll.

We sent out, located the man, brought him to headquarters. Naturally, he denied it — a rape of a 7 year old. You know, that hits you here and it hits you here (touching heart and stomach) when you see this type of a crime.

After talking to the man for a couple of hours, going back and talking to the girls separately, it took nearly six hours to find out the scenario laid out by these 7-year-old girls did not happen, but they had to have an excuse to tell their parents. Their parents had not even reported them missing at 1:30 in the morning.

Where did you get the idea? Well, they showed us these movies in school about not riding with friendly strangers. These two 7 year olds — it bothered me because I knew I had six children at home and I was concerned for them as well as the other children of the city.

Yes, if those girls had gone before a jury and told that jury what they told me, there would be a short deliberation and a guilty finding for sure. Oh, how I would have felt sad if it had been the death penalty.

I could take you on trips to other situations that I feel would clout this type of case in court, but it bothers me that we believe it is wrong for an individual to take a human life — how can we give that power to society as a whole? The existence of the death penalty makes a strong statement about our values in society.

I am not going to go on further. I feel this bill has been debated and probably will further be debated, but, Mr. Speaker, if I am in order at this time, I would make a motion. I move for the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The gentleman from Portland, Mr. Joyce, now moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentleman from Ellsworth, Mr. Silsby.

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: This is my first trip on the Judiciary Committee, and this is the first bill that we had the fortune or misfortune, however you look at it, to hear. This bill is obviously charged with controversy and emotion. It has been before this legislature, it has been before the 108th and it was before the prior legislatures. However, it never has been presented as a capital punishment bill in the form it is presented to us today. I don't believe there has been any explanation of this bill up until this point. I don't profess to be an expert on the mechanisms involved in the bill, but I feel that it would only cover instances where there is an extremely vicious crime. It follows Supreme Court guidelines. It has been written, as I understand it, and drafted by the Attorney General's Office, and it would only apply as a death penalty in instances where the aggravating circumstances outweighed the mitigating circumstances. Those are not my words; those are the words used in the bill.

As Representative Laffin indicated, the defendant in a capital case under this legislation would be afforded two trials. One trial would determine his guilt or innocence and one trial would determine whether or not he should suffer the death penalty. The Court or jury, depending on whether mitigating factors outweighed aggravating factors, could find that the accused should suffer the death penalty. After trial, the judge, in his wisdom, could set aside the case or not put it to the jury for a death penalty determination if he didn't feel the factors were present. The jury could determine that it was not a proper case for a death penalty. The case is automatically reviewed by the law court of the State of Maine, which could determine that the circumstances did not warrant the death penalty.

I think this legislation represents a good-faith effort by the sponsor to put forth legislation into this state that would meet the guidelines as required by the United States Constitution.

We heard, of course, at this hearing, various arguments and we have all heard them before, the religious argument, the argument that the death penalty in not a deterrent to crime, although much to my surprise at the hearing, one of the opponents stated that the evidence was inconclusive as to whether such legislation is, in fact, a deterrent to crime. The argument was presented that an innocent person might be expected, and I might add a further rebuttal to that argument is, when was the last time any of us in this House heard of anyone being released from Thomaston as improperly convicted of any crime? I, myself, have never heard of anybody.

I have heard the argument that Maine abolished the death penalty in the 1800's because an innocent man came close to being hung. I would like to hope that with the appeal system we have in our court system today, that if such an error was in fact made, it wouldn't be handled in the same way as in the olden days when sometimes drumhead justice prevailed.

Many people are opposed to this penalty, obviously, and they have a right to their convictions. I think we could go right down the rows in this hall and find people that are sincerely opposed to it; other people believe in it, and I certainly respect the judgment of everybody in this House and also the taxpayers of the State of Maine. I think we are reaching the point when the taxpayers need to make some determination and give the legislature some guidance as to whether we should go to capital punishment.

In the early days of this legislature, a new committee was created, the Committee on Correctional Institutions, to study the jail and prison systems in the state of Maine in anticipation of major legislation, which I have to assume would be to find a solution to overcrowded conditions. We certainly have heard about it today with the newspaper articles on overcrowding in Thomaston and South Windham. I believe that this committee will ultimately find that prison and jail conditions are inadequate and that major overhauls will have to take place. Such overhauls will obviously cost the taxpaying public millions of dollars. Hancock County, for example, is going through this trauma where they are building a new jail. The county budget just went up $148,000 to pay for jail expenses. In all fairness, I would add that this includes a district court and some other offices, but essentially it is for the jail proper.

We are having problems with our county budget, like most other counties, mainly because of the substantial increase. The county commissioners did decrease the budget by some $80,000, but we are still high and the taxpayers came right out in force with such a disproportionate budget. I think we are going to find this same attitude prevailing all over the state if and when we go to new prisons, regional jails and things of that nature.

People across the country for some years have been trying to rehabilitate the criminal. The courts have been accused of being soft on criminals in their effort to follow the rehabilitation trend, and violent crime continues to grow. Do we continue to follow this approach and build more jails and prisons which are today considered by many to be country clubs or do we take a different tact, the use of capital punishment as a deterrent to crime, the idea being that capital punishment will not clean out the jails and prisons but it will start giving our citizens some respect for the law and order and the rights of those who wish to abide by the law?

I am only in my second term in this legislature, but I have seen from the outset our tendency to enact legislation which has been previously passed in other jurisdictions, such as the billboard bill from Vermont. Some 38 states have enacted or re-enacted death penalty legislation since 1972. Are all those states wrong?

L. D. 45 is what I consider, in effect, people's legislation. It is not, in my opinion, passing the buck. We found the lottery a controversial piece of legislation and it was put before the people. We found the bottle bill to be controversial, so it was put before the people. I see absolutely nothing wrong in letting the people tell the legislature whether they want to spend millions of dollars for jails and prison improvements or whether they want to take a new direction in an effort to control violent crime.

In instances where the legislature is faced by a continuing controversy on any issue, the referendum process has been used in the past to determine the will of the people. I believe that this is an appropriate instance to use the referendum process. Therefore, I urge your support of the legislation and to vote against the motion to indefinitely postpone.

If it hasn't been requested, Mr. Speaker, I would request the yeas and nays.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I will be very brief because I think this is the kind of an issue that most people here have pretty much made up their minds on as to how they are going to vote.

At the outset, I would like to dispel a rumor that I heard in the back of the hall this morning that my seatmate, the gentleman from Westbrook, came into the hall early and had wired my seat in an effort to keep me from speaking on the bill, and that is not true.

I would just like to make a couple of points. The major argument that is used by the proponents of this legislation is that were this bill to be enacted and become law through the referendum process, it would act as a deterrent to violent crimes of murder, these proponents, with every good intention, and I do believe in all sincerity that their intentions are good, it seems to me operated out of a certain fear and prejudice, and they believe that the threat of execution will serve as a deterrent to murder and somehow protect the general population from violent crimes of the nature talked about in the legislation. But as we have already heard, there has been no conclusive evidence that in states where capital punishment is allowed that the murder rate has decreased because there is legislation on the books that allows capital punishment to occur.

Partly in jest, but also partly in a serious vein, I suggested to the sponsor of this legislation two or three weeks ago that were the bill to make it through the first stage in the legislative process, I would hope that an amendment might be put on the bill taking the argument of deterrent one step further, that were this bill to become law, that the executions, when they are held, would have to be held at high noon and televised so that all the public would have the opportunity to view the executions taking place. But they dismissed that proposal, saying that it would make a mockery of this particular piece of legislation. It seems to me that what they are saying is that it is all right on the one hand to allow executions but it is not all right for people to witness that, that somehow that is wrong and that if we do have executions, it should take place in a back room somewhere at Thomaston or some other location in the state. They are not willing to take that argument of deterrency to the ultimate, it seems to me.

Were this bill to make its second reading tomorrow, I would offer that amendment and I would hope that it would be adopted. Again, I am an opponent of the legislation and I support the motion for indefinite postponement.

For those people like myself who are opposed to capital punishment, it seems that the fear and prejudices that fuel the feelings of the proponents of this legislation are the same kinds of feelings that I have. I abhor and I detest the idea of someone being murdered in the violent ways that Representative Laffin and others have suggested, but it seems to me that those feelings that we have when this kind of a crime occurs are the dark side of our nature. They appeal to our fears and to our prejudices, and because we have those fears, it doesn't mean that we can justify the taking of another person's life. It seems to me that we, as men and women, have no right to pass judgment on the life of another individual. No person or group of people, it would seem to me, has that right.

I got some references from my good friend from Pittsfield, Representative Wyman, some biblical quotes. If you look back to the Bible, both in the Old Testament and the New Testament, you can pick out various quotations that would seem to support one side or the other of this issue, but it does say in the Bible, "I require mercy, not vengence; vengence is the Lord's and not man's." It seems to me that that is what we are talking about when we are talking about capital punishment, we are talking about vengence, the taking of an individual's life because he or she has committed a crime that we all detest and that makes it right to take a person's life. I just don't think that there is any justification at all for the taking of an individual's life.

One final point I would like to make. I have been critized by some people the last couple of days after an article appeared in the Sunday Telegram for saying that I didn't believe that this matter should go out to referendum because I would be afraid that it might be approved by the people. I feel that, if it does go out to referendum there is a good possibility that this legislation may become law. The reason, as I understand it, the referendum clause is attached to this piece of legislation is that it is a legitimate legislative tactic, it is a tactic used by the sponsor of the legislation in an attempt to get it through here and to get it out to the people for a vote.

Were the proponents of this legislation to believe that the bill would pass in the House and the other body and were eventually to become law, they would not put the referendum clause on this legislation. The only reason that it is there is in an attempt to get it through. Some people may vote for it, although they would be opposed to the idea of capital punishment, would vote for it in the belief that the people have the right to vote. I would just point our that the people can initiate referendums by collecting signatures. It has been done before. It takes a lot of work and a lot of effort, but if it truly is an issue that the people feel should be voted on in referendum, there is a way that that can be done, and that is through the initiative referendum process.

I would hope that you would support the motion of Representative Joyce for indefinite postponement.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: My remarks are going to be brief, and I mean it.

During the committee deliberations, the question I considered was not the pros and cons of a death penalty but whether or not I wanted to deny my consitutents the opportunity to express themselves on a controversial issue that over the years has been throughly discussed and nearly everyone can and will give you an opinion on.

During the 107th, I voted in favor of the death penalty after witnessing what happened in Utah, the attention given to that state by the media, the anguish suffered by the good citizens of that state as the nation's eyes were focused on the day-to-day tug of war between those who wanted the execution carried out and those who thought the execution shouldn't be carried out, and all for a man who wanted to be executed. As I watched this event take place, I couldn't help consider what the State of Maine would be put through before we ever got around to carrying out our first execution. The victim is soon forgotten; the media then focuses their attention on the day-to-day appeals of the convicted.

I had a change of heart, not for the the convicted but for this state and its citizens. In the 108th, the record will show that I voted against the death penalty.

Two opponents of the bill who testified before the Judiciary Committee, one was an educator, the other was a social scientist, proceeded to tell us that this issue should never go to referendum because the public wasn't sophisticated enough to vote intelligently on this issue. It is rather ironic that both these men's salaries are derived from the earnings of these same unsophisticated citizens.

The more these men argued against sending the bill out to referendum, the more I became convinced that it should. To do otherwise would be to question the wisdom of those who elected me to represent them here in Augusta.

I have been here three terms and for the third term we have had to consider this issue. The quickest way to dispose of this issue is to send it out to referendum like the income tax was, like the uniform property tax and like the bottle bill. Should this go to referendum, I shall vote against it and urge my constituents to vote against it for the same reasons previously stated.

There are those who argue that citizens want capital punishment, while others argue that they don't. So today my vote does not indicate my feelings on capital punishment, rather I am voting to send this out to referendum and hopefully dispose of it for good.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: We are all aware of the very serious disregard for law enforcement in the State of Maine, and I think we are equally aware of the disregard for the safety of our law enforcement officials — at least we are down in our neck of the woods.

This bill, which I support, would merely put the question of the death penalty out to the people, and there is nothing wrong with that. Obviously, the effort to advance a deterrent to violent crime will not be forthcoming from this body at least this year. By letting the people vote on this question, we will be asking them to decide the issue themselves, not because we are shirking our responsibility as legislators but because we cannot, as a body, decide the issue. Many of us favor the bill; many of us are opposed to it. In my district, people that I represent, they are about evenly divided, at least those that I have contacted. Telling the people of the State of Maine that we just can't believe that they can make a half way decent decision doesn't add up to me at all. If we trust them, we trust them. If we don't trust them to make a reasonable decision, then the vote will have to be on emotions here in this house. Let's put it out to the people.

In going through the various newspapers and other media that we have, you can read where weapon after weapon is utilized in crimes. I think it is an understanding of everybody that a weapon is used in crime to insure the completion of that crime. Anytime an individual commits a crime with a weapon, you have a potential murder. If the criminal can have a weapon to commit a crime as a deterrent to the victim fighting back, why can't the people in the State of Maine have the right to vote on the death penalty as their deterrent to violent crime? What is wrong with this? Are we telling the people of the State of Maine that we can't trust them to make a responsible decision? Who are we to act as judge and jury on the people's ability to decide an issue so divided as we are in this legislature on the bill?

A strong deterrent to violent crime is needed in Maine. Why can't we turn to the people for direction? Why can't we ask the people to demonstrate their choice?

I can't go back and tell the people in my district that this is my decision and my decision alone as far as they are concerned. I ask that you indicate the willingness of this body to allow the people to decide this question and vote against the indefinite postponement.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise with a deep sense of humility because there are over 80 representatives of families in my own district sitting here in this gallery observing these proceedings. These are the children of families who helped to send me here as their representative in this legislature. I feel humble because I feel that their judgment is at stake here today. We, in our vote, will either be expressing confidence in their ability to arrive at a sound judgment or we will be denying them an opportunity to pass on a very crucial issue because we don't trust them.

I commend the remarks of the gentleman from Rockland concerning the issue that is presently before us. The issue is not whether we, as legislators, are in favor or opposed to the death penalty. It is not whether we consider the death penalty a deterrent or an instrument of uncivilized conduct. It is a question before us of whether we trust our very civilized society, as it was referred to earlier; do we trust the people of Maine as a civilized society to arrive at the right decision? I, for one, do and I recommend that this present motion to indefinitely postpone be defeated so that this legislation may go to the people of Maine for their intelligent decision.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I have been debating with myself here whether I should speak on this or not. Most of the things that need to be said have been said, but there are a couple of items that I don't think have been sufficiently dealt with— one is the statement, do we know of when an innocent person was released from Thomaston because they had been wrongly convicted. It seems that there must be some people in this legislature who remember the time when we had in Thomaston two different men convicted of the same crime. Ultimately, one of them was released. Had we had the death penalty, the first man who was convicted of this crime would no doubt have been executed. Would we then have executed the second man for the crime when additional evidence came about? At the very least, in this particular case, whether you believe justice was done in that case in the final result or not, it was obvious that somebody was guilty and somebody was innocent and that in one trial or the other, a serious mistake was made.

For the other question of sending it out to the people and trusting the people, I think what we are saying here is not so much whether we trust people or not but do we trust ourselves? The people sent us here to do their business. I have detected no great pressure from the people for a death penalty.

It is true, the death penalty question keeps recurring here, always by the same sponsor. I would suspect strongly that if this sponsor were not here, we would not have the death penalty. I am not questioning the motives of the Representative who sponsored this. I know he has the good of the people at heart, but I do believe we are not under any great pressure from the people to enact this.

It is said, let the people decide. Unfortunately, as I have observed the results of items that were sent out to referendum, they almost always pass. I have asked myself, why is it that these items that go out to referendum almost always pass? I have done the same thing myself; I have voted to send something out to referendum when I did not think it would pass this House because I believed it probably would pass. Why is this? My answer is, it is partly in the wording of the referendum itself. It says, "Shall this Act, as proposed by the Legislature..." There is a predisposition that the legislature has decided in favor of this when we sent it out. I think the people feel less that they are deciding an issue than that they are ratifying a decision that has already been made by the legislature. Therefore, I will never vote to send something out to referendum that I do not believe in myself, because I am putting myself on record as proposing this legislation. I think that when one says that — I am not saying that I am in favor of an item, but I am going to send it out and let the people decide, I think that that person is side-stepping his or her responsibility to go on record at least as being for or against a piece of legislation that comes before this House. Therefore, I would hope that we could shortcircuit this whole affair by voting yes on the motion to indefinitely postpone.

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

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

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

Mr. CARRIER: Mr. Speaker and Members of the House: It is extremely hard for me to take a position on this bill today. I want to make it very clear that I am very disturbed by the way the whole question of this bill is being presented. I think the extremely important part of this bill is the fact that it is to go to referendum, not to enact the bill, as was stated a little while ago. You are not being asked to enact the bill; you are only being asked to send it to referendum and let the people decide.

It is hard for me to get into this. I am not biased, because I truly don't know which way I would vote if I was to vote for the death penalty. Having a background from people who never were exposed to this type of legislation, I still have my doubts about it, but I do feel very strongly that we should, and something has to be done somewhere along the line to give the people a chance to put our judicial system in order.

I have had an experience, something which I hope nobody else in this House will ever experience. Today in the State Prison there is a boy who I hope will never get out because I wouldn't want him to go into your back yard and attack any member of your families. It is rather emotional when you think of it, almost burying your son because of one of these individuals who has no conception — he does have conception of what is right and wrong but it

doesn't make any difference to him whether it is wrong or right. He is going to do it anyway.

It has been said in court, right in front of the judge, even with the state psychologist suggesting that this type of person, who is now in state prison, should have been sent to a mental institution for life, but our judicial system does not do that. They do not send them to mental institutions for life. He is in for aggravated assault. Even when you go to the law court and they try to bring it down from aggravated assault to simple assault, and somebody was lying there and could have died, and because of good doctors and the immediate attention he didn't, but today I can take you to him and say to you, as I would to Thomas, put your finger over here and feel what I have — I cannot feel very kindly towards people who think this is not a serious problem. I hope that none of you are ever subjected to having some of your loved ones killed or so close to killed that you just can't accept this.

I can only say to you, and I think all of us are educated individuals and responsible citizens, I would really hate, and I gave notice to the prison officials — don't ever, under any circumstances, let that fellow walk down the path that leads near my house or to my son's house — never. What would happen, I think we are intelligent enough and we are not animals, I think I could use judgment, I would never kill a man, I don't intend to and I hope I never have to. But I will say this, you know the old saying, you can't make a horse drink but you can make him wish that he had.

I am very serious about this. I hate to relate personal facts. I am not begging for votes, this is not the point. The point is that this is strictly a referendum question.

I know that in your good judgment you will do whatever you think is best. I only say to you that I hope that you give it real consideration, because in today's society and the way that things are and the kind of treatment that you get in court and everything else, I do think that you could find yourself in a position which would be very undesirable and very emotional, and I do hope that you and your families are not exposed to what my wife and I were exposed to.

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: As a freshman, I am very reluctant to speak on such an important matter, but as a freshman, I feel that I have something to offer, because in order to be a freshman, I may have had to knock on more doors and visit more people in order to get here than some others who are veterans. If there is one question that kept coming up over and over again, it was, why do you keep sending things out to referendum? Why don't you do your business, make your votes; that is what we sent you there for. So, I would say that if this is a referendum question, then we should vote to indefinitely postpone. I would say that this came to me enough times in my campaigning that if I were in favor of the death penalty, and I am not, I would still have to vote against this question, because I could not vote to send it out to referendum.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mr. Joyce, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Beaulieu, Benoit, Berry, Berube, Blodgett, Bordeaux, Brannigan, Brenerman, Brodeur, Brown, K. C.; Bunker, Carter, F.; Chonko, Cloutier, Connolly, Cox, Davies, Diamond, Doukas, Dow, Dutremble, D.; Elias, Fowlie, Gavett, Gowen, Gwadosky, Hickey, Hobbins, Howe, Huber, Hughes, Jacques, E.; Jalbert, Joyce, Kane, Kany, Kelleher, LaPlante, Leighton, Lewis, Lizotte, Locke, Lowe, Lund, Mahany, Martin, A.; Masterton, Maxwell, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Peterson, Post, Reeves, P.; Rolde, Sewall, Simon, Small, Smith, Soulas, Sprowl, Stover, Tarbell, Tierney, Tuttle, Vincent, Violette, Whittemore, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Barry, Birt, Boudreau, Bowden, Brown, A.; Brown, D.; Brown, K. L.; Call, Carrier, Carroll, Carter, D.; Churchill, Conary, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gillis, Gould, Gray, Hall, Hanson, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Kiesman, Laffin, Lancaster, Leonard, Lougee, MacBride, MacEachern, Marshall, Masterman, Matthews, McHenry, McKean, McMahon, McPherson, Nelson, A.; Payne, Peltier, Prescott, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Stetson, Strout, Studley, Theriault, Torrey, Tozier, Twitchell, Vose, Wentworth.

ABSENT — Dutremble, L.

Yes, 81; No, 69; Absent 1.

The SPEAKER: Eighty-one having voted in the affirmative and sixty-nine in the negative, with one being absent, the motion does prevail.

The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, having voted on the prevailing side, I ask for reconsideration and ask that you vote against me.

The SPEAKER: The gentleman from Portland, Mr. Joyce, moves that we reconsider our action whereby this Bill and all its accompanying papers was indefinitely postponed.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I can truly understand why the opponents of the bill that is before us today don't want it to come back here. I can understand that, and I can understand today why so many of them are worried that over half of the members of this House voted for this bill this time as compared to last time. I can understand why they are worried, and I can understand why many of them here today have said things that aren't quite — well, it hasn't been dishonest but it is kind of stretching things a little.

I can remember a referendum that went out to the people a short while ago. It was on a little school up here in Maine. I believe they wanted something on the ballot for a couple hundred thousand dollars, or whatever it was, I don't remember the exact figure for this school. It was put out to referendum. The people of Maine said no. A member of the other body was so upset, he couldn't believe it. So don't buy that, that every time it goes out to the people, the people vote for it. The people in this State are very intelligent and don't think they are not. After all, they sent us up here! The people of this state are not stupid. They know what the death penalty is.

Mr. Carrier has recited a personal experience, and there are many more in this state. There is nothing funny about the death penalty. There is nothing funny when people lose members of their families because of vicious crime, lower than animals, with no consideration for your life or your family's life — no consideration whatsoever. They could care less about you. If you want to know the truth, they are even laughing at you. They are laughing at you because you don't believe in capital punishment.

I will tell you something, murderers fear the death penalty, and that is the only thing that they do fear. They don't fear our prison system, they don't fear the laws of society that we live by; but, oh, how they fear that death penalty. It is final, as members of this House have stated. You bet your life it is final. But remember, ladies and gentlemen, it is also final for the innocent victims. Yet, you never talk about them, but it is final. It is final for them, too, and the way that their lives will have to be changed. If you can't protect innocent people, if you can't protect the elderly men and women and the young people of this state, then I don't think you even deserve to be up here.

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

Mr. STROUT: Mr. Speaker, I move that this be tabled for two days pending the motion to reconsider.

Whereupon, Mr. Hobbins of Saco requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Corinth, Mr. Strout, that this matter be tabled for two legislative days pending the motion of Mr. Joyce of Portland to reconsider. All those in favor will vote yes; those opposed will vote no.

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

Mr. BARRY: Mr. Speaker, I would like to pair my vote with Mr. Howe of South Portland. If he were here, he would be voting no and I would be voting yea.

ROLL CALL

YEA — Aloupis, Austin, Birt, Bordeaux, Boudreau, Bowden, Brown, A.; Brown, K. L.; Bunker, Call, Carrier, Carter, D.; Carter, F.; Churchill, Conary, Cunningham, Damren, Dexter, Drinkwater, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gillis, Gray, Hall, Hanson, Higgins, Hunter, Hutchings, Immonen, Jackson, Kiesman, Laffin, Lancaster, Leonard, Lewis, Lougee, Lowe, MacBride, MacEachern, Marshall, Masterman, Matthews, McHenry, McKean, McMahon, Nelson, A.; Payne, Prescott, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Smith, Stetson, Strout, Studley, Tarbell, Theriault, Torrey, Tozier, Tuttle, Vose, Wentworth.

NAY — Bachrach, Baker, Beaulieu, Benoit, Berry, Berube, Blodgett, Brannigan, Brenerman, Brodeur, Brown, D.; Brown, K. C.; Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Davis, Dellert, Diamond, Doukas, Dow, Dutremble, D.; Elias, Fowlie, Gavett, Gowen, Gwadosky, Hickey, Hobbins, Huber, Hughes, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, LaPlante, Leighton, Lizotte, Locke, Lund, Mahany, Martin, A.; Masterton, Maxwell, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paul, Pearson, Peltier, Peterson, Post, Reeves, P.; Rolde, Sewall, Simon, Small, Soulas, Sprowl, Stover, Tierney, Twitchell, Vincent, Violette, Whittemore, Wood, Wyman, The Speaker.

ABSENT — Carroll, Dudley, Gould, Paradis

PAIRED — Barry-Howe

Yes, 66; No, 79; Absent, 4; Paired, 2.

The SPEAKER: Sixty-six having voted in the affirmative and seventy-nine in the negative. with four absent and two paired, the motion does not prevail.

Mr. Laffin of Westbrook requested a roll call vote on the motion to reconsider.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Joyce, that the House reconsider its action

whereby this Bill and all its accompanying papers were indefinitely postponed. All those in favor of reconsideration will vote yes; those opposed will vote no.

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

Mr. BARRY: Mr. Speaker, I would like to pair my vote with Mr. Howe from South Portland. If he were here, he would be voting no and I would be voting yea.

**ROLL CALL**

YEA — Aloupis, Austin, Birt, Bordeaux, Boudreau, Bowden, Brown, A.; Brown D.; Brown, K. L.; Bunker, Call, Carrier, Carter, D.; Carter, F.; Churchill, Conary, Cunningham, Damren, Davis, Dexter, Drinkwater, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gillis, Gould, Gray, Hall, Hanson, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Kiesman, Laffin, Leonard, Lewis, Lougee, MacBride, MacEachern, Marshall, Masterman, Matthews, McHenry, McKean, McMahon, McPherson, Payne, Prescott, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Small, Stetson, Stover, Strout, Studley, Theriault, Torrey, Tozier, Twitchell, Vose, Wentworth.

NAY — Bachrach, Baker, Beaulieu, Benoit, Berry, Berube, Blodgett, Brannigan, Brenerman, Brodeur, Brown, K. C.; Carroll, Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Dellert, Diamond, Doukas, Dow, Dutremble, D.; Elias, Fowlie, Gavett, Gowen, Gwadosky, Hickey, Hobbins, Huber, Hughes, Jacques, E.; Jalbert, Joyce, Kane, Kany, Kelleher, Lancaster, LaPlante, Leighton, Lizotte, Locke, Lowe, Lund, Mahany, Martin, A.; Masterton, Maxwell, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Peltier, Peterson, Post, Reeves, P.; Rolde, Sewall, Simon, Smith, Soulas, Sprowl, Tarbell, Tierney, Tuttle, Vincent, Violette, Whittemore, Wood, Wyman, The Speaker.

ABSENT — Dudley.

PAIRED — Barry-Howe.

Yes, 68; No. 80; Absent, 1; Paired, 2.

The SPEAKER: Sixty-eight having voted in the affirmative and eighty in the negative, with one being absent and two paired, the motion does not prevail.

Sent up for concurrence.

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**Orders of the Day**

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

Bill, "An Act to Allow Prison Inmates to Attend the Funeral of a Brother or Sister" (H. P. 100)

(Committee on Health and Institutional Services suggested)

Tabled—January 23, 1979 by Mrs. Prescott of Hampden.

Pending—Reference.

On motion of Mrs. Prescott of Hampden, the Bill was referred to the Joint Select Committee on Corrections, ordered printed and sent up for concurrence.

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(Off Record Remarks)

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The SPEAKER: On the Committee on Election Laws, the Chair would remove the gentleman from East Millinocket, Mr. Birt, and in his stead appoint the gentlewoman from Newcastle, Mrs. Sewall.

On the Committee on Audit and Program Review, the Chair would remove the gentleman from Freeport, Mr. Fillmore, and replace in his stead the gentlewoman from Lincolnville, Mrs. Hutchings.

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Mr. Laffin of Westbrook was granted unanimous consent to address the House.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank this House personally today for the fine support that they have shown the people. I want to thank my good friends in this House who disagree with me. I have talked to many of you. You certainly have been fine ladies and gentlemen. Although we may not agree on the issue, this issue is not dead, and I certainly want to thank each and every one of you for the part that you took.

The SPEAKER: The Chair would like to thank the gentleman from Westbrook, Mr. Laffin, also members of the House, for the conduct of themselves in that debate which, of course, is always one of those issues which is emotional and is, of course, of great concern to all of us. This is an example of one of those issues which is emotional and there are many more to come, and I appreciate your cooperation on the way the debate was handled today and appreciate your cooperation in the future.

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On Motion of Mr. Laffin of Westbrook,

Adjourned until ten o'clock tomorrow morning.