

# 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

Monday, March 12, 1979

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

Prayer by the Reverend William B. Miller of the First Congregational Church, Norway.

Rev. MILLER: Let us pray. Because we know, O Lord, there is a wideness in Thy mercy like the wideness of the sea, we open our hearts in this moment of quiet and wait for the incoming tide. These are open moments when we send out our hopes and promises into the unknown. We would be ever mindful of the responsibilities we bear and of the solemn trust which has been placed in our hands. The sum total of what we have been cannot be undone, but we remember that we are also our aspirations, and with these we probe the yet to be. Help us to be calm through all the turbulent motions of the world, to stand for the things that count and to see things through in the face of every strain.

May we debate the important issues with passion, yet without rancor, always remembering that the betterment of the great State of Maine is our only goal. Amid the strangeness and haste of our lives, we are part of the awful march of destinies, both good and evil; yet, our dust is lighted by dreams undying. Help us to keep the wonderful words "love, freedom and compassion," good words, and help us to bring them to life for all people.

All we have to bring to thee, O God, is our own good intentions, as poor as they are. May we have the wisdom and courage to pave the road to heaven with them. Amen.

The members stood at attention during the playing of the National Anthem by the Bonny Eagle High School band of West Buxton.

The journal of the previous session was read and approved.

**Papers from the Senate**

The following Communication:

The Senate of Maine

Augusta

March 9, 1979

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it accepted the 'Ought Not to Pass' report of the Committee on Bill, "An Act to Provide for Jury List Selection from Sources other than Voting Lists", (S. P. 178) (L. D. 408).

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am very sorry this morning that the other body chose to take the direction that they have taken on this bill, and I certainly hope that members of this House that come back in 1981 will keep a close eye on the report that is going to cost the taxpayers \$50,000 to put forth and make sure that that report does not hang on the shelf, because this bill, I believe, was very important and it is going to be important to the people of this state to be sure that everyone has their responsibility to serve on jury duty, not just so they won't register to vote to keep them off the list.

Thereupon, the Communication was ordered placed on file.

The following Communication:

The Senate of Maine

Augusta

March 9, 1979

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Adhere on Bill, "An Act to Require Motorcycle Operators and Passengers and Motor Driven Cycle Operators and Passengers to Wear Helmets if they are Minors", (H. P. 114) (L. D. 123).

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

**(Off Record Remarks)**

Bill "An Act to Amend the Life Insurance Provisions Regarding Justices and Judges" (S. P. 345) (L. D. 1059)

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

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

Bill "An Act to Provide Additional Assistance to the County Law Libraries" (S. P. 344) (L. D. 1032)

Came from the Senate referred to the Committee on Local and County Government and ordered printed.

In the House, was referred to the Committee on Local and County Government in concurrence.

**House Reports of Committees****Ought Not to Pass**

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on RESOLVE, Reimbursing Bugbee-Brown, Inc., for Over-collection of \$289.85 in Cigarette Taxes (S. P. 190) (L. D. 457)

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

**Non-Concurrent Matter**

Bill "An Act Relating to Appropriating Funds for Certain Municipal Governments" (H. P. 792) (L. D. 991) which was referred to the Committee on Education in the House on March 5, 1979.

Came from the Senate referred to the Committee on Appropriations and Financial Affairs in non-concurrence.

In the House: On motion of Mr. Pearson of Old Town, the House voted to recede and concur.

At this point, a message came from the Senate, borne by the Assistant Majority Floor Leader, Senator Pierce of Kennebec, proposing a Convention of both branches of the Legislature to be held at 11:00 a.m. in the Hall of the House for the purpose of extending to the Chief Justice Vincent L. McKusick and the Supreme Judicial Court an invitation to attend the Convention and to make such communication as they may be pleased to make.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 11:00 a.m. and the Speaker appointed Mr. Tierney of Lisbon Falls to convey this message to the Senate.

Subsequently, Mr. Tierney of Lisbon Falls reported that he had delivered the message with which he was charged.

**Non-Concurrent Matter  
Tabled and Assigned**

Bill "An Act to Increase the Minimum Wage to \$4 Per Hour" (H. P. 26) (L. D. 43) which was passed to be engrossed in the House on March 7, 1979.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-29) in non-concurrence.

In the House: On motion of Mr. Laffin of Westbrook, tabled pending further consideration and tomorrow assigned.

**Petitions, Bills and Resolves  
Requiring Reference**

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

**Aging, Retirement and Veterans**

Bill "An Act to Revise the Qualifications for Burial in the Veterans Memorial Cemetery" (H. P. 923) (Presented by Mr. Theriault of Rumford)

RESOLVE, to Provide Minimum Retirement Benefits for Alfred R. Skolfield of Corinth (H. P. 924) (Presented by Mr. Strout of Corinth) (Ordered Printed)

Sent up for concurrence.

**Agriculture**

Bill "An Act to Provide Loans for Family Farms" (H. P. 925) (Presented by Mr. Wood of Sanford) (Cosponsors: Mr. Roope of Presque Isle, Mr. Wyman of Pittsfield, and Mr. Mahany of Easton)

(Ordered Printed)

Sent up for concurrence.

**Appropriations and Financial Affairs**

Bill "An Act to Transfer the Cost of Witness Fees for Superior Court from County Budget to the State" (H. P. 926) (Presented by Mr. Carter of Winslow) (Cosponsor: Mr. Morton of Farmington)

Bill "An Act to Upgrade, Construct and Maintain Court Facilities" (H. P. 927) (Presented by Mr. Pearson of Old Town) (Cosponsors: Mr. Higgins of Scarborough, Mr. Morton of Farmington, and Mr. Kelleher of Bangor) (Ordered Printed)

Sent up for concurrence.

**Business Legislation**

Bill "An Act to Improve the Efficiency and Operation of Redemption Centers for Returnable Containers" (H. P. 928) (Presented by Mr. Rolde of York) (Cosponsor: Mr. Hughes of Auburn)

Bill "An Act to Permit Optional Credit Life Insurance for the Comaker of a Debt" (H. P. 929) (Presented by Mr. Whittemore of Skowhegan)

(Ordered Printed)

Sent up for concurrence.

**Education**

Bill "An Act to Clarify the Education Law" (Emergency) (H. P. 930) (Presented by Mr. Connolly of Portland)

Bill "An Act to Require Vocational-technical Institutes to Provide Vocational Education for Handicapped Students" (Emergency) (H. P. 931) (Presented by Mrs. Lewis of Auburn) (Cosponsor: Mr. Rolde of York)

(Ordered Printed)

Sent up for concurrence.

**Election Laws**

Bill "An Act to Improve Election Laws and to Make Equal Application of Legal Requirements for Independents, Democrats and Republicans in all Respects" (H. P. 898) (Presented by Mr. Tarbell of Bangor)

(Ordered Printed)

Sent up for concurrence.

**Energy and Natural Resources**

Bill "An Act to Encourage the Use of Solid Waste as Fuel Source" (H. P. 921) (Presented by Mr. Blodgett of Waldoboro) (Cosponsors: Mrs. Huber of Falmouth and Miss Brown of Bethel)

(Ordered Printed)

Sent up for concurrence.

**Fisheries and Wildlife**

Bill "An Act to Permit Hunting until ½ Hour

After Sunset During Open Season on Deer" (H. P. 932) (Presented by Mr. Rollins of Dixfield) (Ordered Printed)  
Sent up for concurrence.

#### Tabled and Assigned

Bill "An Act to Create the Bruce McCrea Game Sanctuary in Fort Fairfield" (H. P. 933) (Presented by Mr. Mahany of Easton) (Cosponsor: Mr. Martin of Eagle Lake)  
Committee on Fisheries and Wildlife was suggested.

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker and Members of the House: In reading this over, I find a technical error in it. I think I would have to ask for this to be tabled for one day pending reference.

Whereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending reference and tomorrow assigned.

#### Judiciary

Bill "An Act to Strengthen the Penalties for Operating Under the Influence" (H. P. 934) (Presented by Mrs. Locke of Sebec) (Cosponsor: Mr. Silsby of Ellsworth and Mr. Diamond of Windham)

Bill "An Act Relating to Access, Copying and Release of Medical Records" (H. P. 935) (Presented by Mrs. Kany of Waterville) (Cosponsors: Mr. Rolde of York and Mr. McMahon of Kennebunk)

(Ordered Printed)

Sent up for concurrence.

#### State Government

Bill "An Act to Establish a Commission to Study the State Personnel System" (H. P. 936) (Presented by Mrs. Kany of Waterville) (Cosponsors: Mrs. Reeves of Pittston, Mrs. Darnen of Belgrade, and Mr. Lancaster of Kittery)

Bill "An Act to Amend the Method of Appointment to the Advisory Committee on Medical Education" (H. P. 937) (Presented by Mr. Rolde of York)

(Ordered Printed)

Sent up for concurrence.

#### Taxation

Bill "An Act to Partially Exempt School Books from the Sales Tax" (H. P. 938) (Presented by Mr. Tarbell of Bangor)

Bill "An Act to Enforce Collection of Sales Tax at Coin Shows" (H. P. 939) (Presented by Mr. Tarbell of Bangor)

(Ordered Printed)

Sent up for concurrence.

#### Transportation

Bill "An Act to Provide that a Person's Picture Shall Appear on His Driver's License and to Provide for a Photographic Identification for Nondrivers" (H. P. 940) (Presented by Mr. Nadeau of Lewiston) (Cosponsors: Mr. McKean of Limestone and Mr. Birt of East Millinocket)

(Ordered Printed)

Sent up for concurrence.

#### Orders

An Expression of Legislative Sentiment (H. P. 922) recognizing that:

Henry Stewart of Old Orchard Beach has been named Old Orchard Beach's first Outstanding Citizen

Presented by Mr. McSweeney of Old Orchard Beach.

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

#### House Reports of Committees

##### Ought Not to Pass

Mrs. Kany from the Committee on State Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Guarantee the Rights, Privileges and Immuni-

ties of its Citizens (H. P. 287) (L. D. 364) reporting "Ought Not to Pass"

Mrs. Locke from the Committee on Education on Bill "An Act Relating to Requirements for Physical Education and Minimum School Year for Elementary and Secondary Education" (H. P. 429) (L. D. 546) reporting "Ought Not to Pass"

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

##### Leave to Withdraw

Mr. Brennerman from the Committee on Health and Institutional Services on Bill "An Act Concerning Destitute Indians Outside of Reservations" (H. P. 393) (L. D. 501) reporting "Leave to Withdraw"

Mr. Connolly from the Committee on Education on Bill "An Act to Provide for Limited Education Concerning Reproduction in the 7th and 8th Grades" (H. P. 368) (L. D. 476) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

##### Ought to Pass with Committee Amendment

Mrs. Post from the Committee on Marine Resources on Bill "An Act to Repeal the Tax on Marine Worms" (H. P. 62) (L. D. 70) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-82)

Report was read and accepted and the Bill read once. Committee Amendment "A" was read and adopted and the Bill assigned for second reading, Tuesday, March 13.

##### Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Prohibit Gas Stations from Charging a Fee for Putting Air in a Customer's Tires" (H. P. 153) (L. D. 192)

Report was Signed by the following members:

Messrs. AULT of Kennebec

CHAPMAN of Sagadahoc

Ms. CLARK of Cumberland

— of the Senate.

Miss ALOUPIS of Bangor

Messrs. HOWE of South Portland

SPROWL of Hope

LIZOTTE of Biddeford

JACKSON of Yarmouth

GWADOSKY of Fairfield

WHITTEMORE of Skowhegan

Miss BROWN of Bethel

— of the House.

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

Report was signed by the following members:

Messrs. BRANNIGAN of Portland

DUTREMBLE D. of Biddeford

— of the House.

Reports were read.

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

Mr. HOWE: Mr. Speaker, I move we accept the Majority "Ought Not to Pass" Report.

Thereupon, Mr. Vincent of Portland requested a vote.

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: Shortly after I was elected, a constituent approached me and asked me if I would put in a bill for him. He had been a worker in my campaign and the bill was very similar to the one that is before us this morning. So, I said, well, yes, I would put in for it. He is a lawyer and familiar with drawing up legislation, so he drew up the Legislation. Before we had it completely prepared, the present bill came on the calendar, so I withdrew the bill that my constituent and I were preparing.

This bill has given us some laughs. One way here said, as the Clerk first read it, well, we certainly will deflate that one quickly. It has also caused some anger because it is severely regulating.

These same feelings came to our committee when we heard this bill — laughter and anger. But the atmosphere changed when the representative from AAA got up as a proponent of this bill, and he helped us to see that there was some seriousness to this bill. My constituent had urged me that there was seriousness to this bill because of tire safety and energy savings. The representative from AAA said that there was some seriousness to this matter because of these two reasons.

The head of the National Highway Safety Committee, we began to find out, had been working on this for some time. You see, we are dealing with vending machines of air, and these proliferated across our county even though we don't have them in Maine as yet. So, the head of the National Traffic Safety Committee has been so concerned that they have been contacting oil companies and, if you don't mind the expression, have been putting pressure on them to see to it that air is kept a free commodity in our country. They have been putting pressure on our tire manufacturers to keep air a free commodity.

So, I would just like to say this morning that even though it has provided us some laughs and we have needed some of those lately, this bill does address a serious matter, and even though our committee has decided that this is not the way to address it, I would like to impress upon you that it is a matter that is of concern and is being considered.

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

Mr. HOWE: Mr. Speaker and Members of the House: I thought I would just share with you the thoughts which I think prevailed among the majority of the committee.

First of all, charging for air, it sounds a little bit like charging for the air we breathe, and one's first reaction is, how could they possibly do that? The charge, of course, is not for the air so much as for the service of providing air under pressure for your tires, a practice of charging for which is practically non-existent, as far as we can tell. I have never run into a station which charges for air. The problem seems to be finding stations which provide it at all, and therein lies one of the problems with this bill, I think, in that I believe that it would probably further reduce the number of stations ultimately which do provide air. I think the chief reason for that is that the equipment does cost something, a compressor, equipment and the hoses on the air pressure devices are subject to a great deal of vandalism, at least those that are attached on the outside of the building. Some stations told us they have to replace these hoses about four times a year.

One of the things that irritates gas station owners, the full service stations that provide air, is that many people will buy their gasoline at a discount station which provides virtually nothing but gasoline and then will drive over to a full-service station to get some free air and then drive off without purchasing any other services.

I think as far as the safety issue is concerned, there is no question that tires that have less than full inflation are a safety hazard, but I think it would be better to require all stations to provide the air than to put forth a measure like this. That is why the majority of the committee is opposed to it.

The SPEAKER: A vote has been requested. The pending question is on the motion of the gentleman from South Portland, Mr. Howe, 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.

99 having voted in the affirmative and 22

having voted in the negative, the motion did prevail.

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Permit Sellers of Alcoholic Beverages to Remain Open to 2 A.M." (H. P. 221) (L. D. 269)

Report was signed by the following members:

Mr. SHUTE of Waldo  
— of the Senate.  
Messrs. VIOLETTE of Van Buren  
SOULAS of Bangor  
MAXWELL of Jay  
Ms. BROWN of Gorham  
Messrs. McSWEENEY of Old Orchard Beach  
STOVER of West Bath  
Miss GAVETT of Orono  
Messrs. CALL of Lewiston  
DELLERT of Gardiner  
DUDLEY of Enfield

— of the House.

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

Report was signed by the following members:

Messrs. FARLEY of York  
COTE of Androscoggin  
— of the Senate.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Van Buren, Mr. Violette.

Mr. VIOLETTE: Mr. Speaker, I move that the House accept the Majority "Ought Not to Pass" Report.

Whereupon, Mr. Vincent of Portland requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Van Buren, Mr. Violette, 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.

112 having voted in the affirmative and 6 having voted in the negative, the motion did prevail.

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Relating to Injunctions in Labor Disputes" (H. P. 374) (L. D. 475)

Report was signed by the following members:

Messrs. COLLINS of Knox  
DEVOE of Penobscot  
— of the Senate.  
Mrs. SEWALL of Newcastle  
Messrs. SILSBY of Ellsworth  
GRAY of Rockland  
JOYCE of Portland  
CARRIER of Westbrook  
STETSON of Wiscasset

— of the House.

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

Report was signed by the following members:

Mrs. TRAFTON of Androscoggin  
— of the Senate.  
Messrs. HOBBINS of Saco  
LAFFIN of Westbrook  
SIMON of Lewiston  
— 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 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, Men and

Women of the House: Many of you who have opened up your books might realize now that I am the sponsor of this particular piece of legislation and I stand before you as a minority signer and moving the majority report.

After discussing this matter with many people in labor and management, I have been told by them that the present language that exists in this particular bill is the present state of the law. This particular language of this particular bill I sponsored because there had been a problem in the past with one particular labor dispute. Since that time, that particular dispute has been solved, resolved and solved, and this particular piece of legislation is no longer needed, I feel.

Thereupon, on motion of Mr. Hobbins of Saco, the Majority "Ought Not to Pass Report was accepted and sent up for concurrence.

#### Divided Report

Nine Members of the Committee on Judiciary on Bill "An Act Raising the Amount of the Homestead Exemption in Attachment and Bankruptcy Proceedings" (H. P. 419) (L. D. 532) report in Report "A" that the same "Ought Not to Pass"

Report was signed by the following members:

Messrs. COLLINS of Knox  
DEVOE of Penobscot  
Mrs. TRAFTON of Androscoggin  
— of the Senate.  
Messrs. STETSON of Wiscasset  
CARRIER of Westbrook  
SILSBY of Ellsworth  
GRAY of Rockland  
SIMON of Lewiston  
Mrs. SEWALL of Newcastle  
— of the House.

Two Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-79)

Report was signed by the following members:

Messrs. HOBBINS of Saco  
JOYCE of Portland  
— of the House.

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass"

Report was signed by the following member:

Mr. LAFFIN of Westbrook  
— 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 Report B.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, moves that the House accept Report B.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: If you have noticed, there are several reports on this bill, and I would like to explain why some of us signed out "Ought Not to Pass" on this bill that would raise the exemption on that amount of money that can be withheld or exempted from bankruptcy proceedings.

Under present law in bankruptcy proceedings, a householder may exempt the first \$5,000 from attachment by any creditor. This bill was submitted at the request of Pine Tree Legal. I asked their spokesman what the average value was of the client's homes that he represents.

Now, the law also requires that the amount that is exempted must be reinvested into property.

The spokesman for Pine Tree Legal, his response was this, that most of his clients are renters. Those who do own homes, the average value was between ten and fifteen thousand dollars. This means that the \$5,000 that must be reinvested would be 20 percent and make a down payment on a \$20,000 home, which far ex-

ceeds, as he admitted, the value of the homes of the clients that he represents.

There are other far-reaching implications when you raise this exemption. This is going to hurt those people that he is actually trying to help, in that these people rely on credit for the purchases of the bare necessities, such as fuel oil, and I am sure that these creditors, when you raise the value to this amount, allowing them to — you know, above the \$5,000, this is going to tighten credit up and really make their ability to obtain credit more difficult.

I would hope that we could maintain this at \$5,000, and if it is in order, Mr. Speaker, I would like to move that this bill and all its accompanying papers be indefinitely postponed.

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

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

Mr. CARRIER: Mr. Speaker and Members of the House: I support the motion to indefinitely postpone the bill. There are many reasons why. One of the main reasons is that if somebody goes through bankruptcy, and most of them do, I think it is because of bad management on their part of their own personal affairs. We do realize that there are people that through hardship do get themselves in such a situation, but to raise the exemption limitation is rather foolish at this time.

As a matter fact, I stated in committee that I don't think that we should even have the \$5,000 on there, but it is there and I will go along with it. The main reason given for the \$5,000 limitation is the fact, the very touchy fact that although they have done wrong and the creditors are left holding the bag because they are owed some money and they can't collect, yet we let them keep \$5,000 so they can buy another house. Well, that has some value, but, on the other hand, it doesn't either, because actually when these people in bankruptcy want to buy a house, this is not the way things run. Any broker with experience will tell you that — I can sell a house today to somebody that hasn't got any money and he has been through bankruptcy, and I will find him a certain type of house and get the owner to take a first mortgage with no down payment and no credit check required whatsoever, and this is the way it turns out.

Some people with a better heart than I have put in the \$5,000 limitation two years ago, and I will go along with that, but I hope you do support the motion, because if you will look at the report very closely, you will find that it isn't going anywhere, according to the other body's report.

I don't think it is a good bill, I don't think we need it, and I hope you support the motion to indefinitely postpone.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will indefinitely postpone this bill this morning. I feel that the figure is too high in both the B and C Reports. The C Report, of course, is \$15,000; the B Report is \$7,500, which gives a \$2,500 increase since 1977. I think that is moving along a little too fast with it.

Much of what I had to say has been said by Representative Gray, but these homestead exemptions tend to be self-defeating in that a person, if he gets it on the record that he is exempting say \$5,000 of his real estate, when he goes to the bank to see about getting a mortgage, the bank isn't going to lend him any money unless they see an equity in his real estate over and above the \$5,000 exemption, because they don't want to get cut out in the event of bankruptcy. So I think they tend to be self-defeating if you get the figure too high. I certainly am willing to go along with a reasonable figure, and I think \$5,000 is that figure.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: This particular bill has three reports. Report A would maintain the present law at \$5,000 for an exemption. Report C was the original bill, and that was \$15,000. Two members of the committee felt that this was an unreasonable figure and that the \$7,500 figure, which is represented in Report B, is one, I think, that is reasonable considering the inflationary times that we have today.

Many of you might be surprised and shocked to think that this is an overall exemption or a homestead exemption. If I may read one part of the bill, I think you will find that this is only a temporary exemption.

The bill says that this exemption to a homeowner in the amount, let's say, of \$7,500, and said \$7500 shall remain exempt from attachment and execution by any creditor for a period of one year. At the end of this one year period, if the \$7500 figure which we propose in Report B is not reinvested in property which qualifies for the homestead exemption, this \$7500 shall be subjected to attachment and execution. So don't think in reading this bill that this is a permanent exemption. Unless there is a reinvestment within a one-year period of time, this money would revert to the creditors involved.

I think this figure of \$7500, basically, is consistent with the inflationary cycle that has hit the country and I think it is basically consistent with the intent of the legislation and with the \$5,000 figure.

I would request a division on this particular bill.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: I would just point out that the same provisions requiring reinvestment pertains to present law, in that \$5,000, if reinvested on present requirements of a down payment, would make a down payment on a \$20,000 house. This is probably double of the average value of homes whom are represented by the Pine Tree Legal.

I really don't understand their reasoning behind this because this, in effect, would really help the upper income people to escape paying their bills and would make lower income people that much more difficult to obtain credit.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to urge you to defeat the motion before this body to indefinitely postpone this bill.

I have heard many remarks today that make me cringe. This bill does not help the renter. I agree with that, but you know, today out there with the economy the way it is, renter or owner, the occupant really doesn't have a choice. People are forced to buy. As we travel through the state, we see how difficult it is for a family with children to rent. Many of these people have had to buy before their time.

We are talking about raising a figure from \$5,000 to \$7,500. That is not really a big deal. We are asking so little for so few, but it is the important few that we are asking this for. It is not bad management. It could be the "angel of death" that descends on the family. It could be those tens of thousands of dollars of medical bills. Yes, it could be many things that would bring about a situation where this would have to be invoked.

Really, when you get to the guts of this bill, all it is asking you is, don't kick a man when he is down. Just remember, it is asking us to carry just a little bit more of the load for which we all should reply — "He is not heavy, he is our brother."

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

Mr. ROLDE: Mr. Speaker, Ladies and Gen-

tlemen of the House: I think the key to this bill and the reason for seeking an increase is in Section II in the sentence that says, if the interest of a householder in his homestead exceeds — and the figure is now \$5,000 — it may be subjected to a forced sale. I think that is the reason for wanting to increase the amount of exemption, because with the increase of the value of property, equity increases, and so now the figure is \$5,000, if it exceeds that, at which it may be sold.

The original figure on the bill, which I am the sponsor of, was \$15,000, as has been pointed out to you. Perhaps that was an excessive amount. It was meant to coincide with the problem of inflation and the inflation of house values. I appreciate the vote of the gentleman from Westbrook, Mr. Laffin, for sticking with the original bill, but I do feel that the two members of the committee who did sign a report for \$7,500 were acting in a reasonable and responsible manner.

I hope you will kill the motion to indefinitely postpone and consider their approach under Report B.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I know that many of us today feel that if people get into trouble and they spend more than they make and they are forced to go through bankruptcy, it is their own doing and it is their own fault and to a certain extent I would have to agree with that. But I say to you my friends, so be it. Don't they deserve a second chance? Suppose they have a trailer, they have a small home or whatever the case may be, they deserve a second change. What is \$5,000 today? \$5,000 today for a home of this type is absolutely nothing and we can't even get the minimum wage in this state of \$4, so how can those people live?

I will tell you what is wrong. We need more exemptions. I am not going to fight for my \$15,000 on this bill, I believe in this bill. This is a good bill. This bill will help those who are less fortunate than ourselves. This bill will help the people living on low incomes. This bill will help them get another start, that is all it is asking. Give them a little bit of money so that when the time comes and if they do have to go through bankruptcy, they lose their home, they can at least have \$7,500.

I ask you, what is \$7,500? Twenty years ago, yes, \$7,500 was a lot of money but today \$7,500 isn't anything. I say to you this morning, have a little compassion. Do not support the motion of indefinite postponement. Give these people a chance. All we are asking is, if they do come into hard times, and everybody has hard times now and then, when that happens and they are forced to sell their homes, let them have a little pocket money to buy another home. If that is asking too much — I don't believe that it is asking too much, I believe that we should have compassion for those who cannot help themselves.

I do not agree that this is a rich man's bill. If this was a rich man's bill, I wouldn't be on the other side, I can assure you of that. This bill protects the small person, who has a small income, a person who can't meet his obligations, can't pay his bills, that happens to a lot of people, and if the creditors are demanding their money and they are forced to sell their home, all we are asking is to give them a little \$7,500 so they can have a little pocket money so they can start in again new. I see nothing wrong with that.

We are not asking for \$15,000, even though I supported the bill as it was; we are only asking for \$7,500. That is a \$2,500 increase. What is \$2,500? Many of you who have spoken against the bill said you could live with the \$5,000. Well, if you can live with \$5,000, you can live with \$2,500 more.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The problem with this bill is the question of credit, and if this limitation is raised from the present \$5,000 — this exemption — to a figure of \$7,500 or \$15,000, it will seriously impair the ability of the little man to obtain credit, credit for necessities, not credit to buy a home but credit to buy fuel oil, credit to buy groceries.

The unfortunate thing is, we have heard not one case cited to the committee where the \$5,000 exemption worked a hardship and where an increased exemption would have saved a homeowner. If we had heard but one case, there might be some justification for the argument that this bill is necessary. I submit that it is not necessary and it would be an injustice to the people who are asking for it.

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

Mr. TIERNEY: Mr. Speaker, I would like to pose a question through the Chair to the good gentleman from Wiscasset, Mr. Stetson.

I know that the good gentleman from Wiscasset has spent many more years in legal practice than I and especially since his long experience in the federal government, he should be able to give me a relatively clear answer on this.

As I am sure that he and the other members of the committee know, the Federal Bankruptcy Act has been completely recodified with an effective date of October 1, 1979. I am wondering if he has done the research as to how this particular proposal will tie in with the various state options under Chapter 13 of the Federal Bankruptcy Act and the exemption proposed in that particular bill?

The SPEAKER: The gentleman from Lisbon Falls, Mr. Tierney, has posed a question through the Chair to the gentleman from Wiscasset, Mr. Stetson, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. STETSON: Mr. Speaker, the answer is negative.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I have legitimately tried to stay out of this debate because I assumed that the members of the committee were more familiar with the recodification than I, but I have done some research into it and the answer is fairly clear.

The federal government wrestled with this precise same issue for a very long period of time and came up with the answer that as of October 1, 1979, the Federal Homestead Exemption will be exactly as Report B, or \$7,500. In other words, I had assumed that was why Report B was before us, because that type of research had been done. I am surprised that the good gentleman hasn't.

It simply makes a lot of sense. As you look at the question of credit availability, and I have had some experience with a small credit union in my town, loans are not issued on a basis of assets, they are usually based on the idea of income, because people don't give loans on the idea that they are going to take someone's house away. It seems to me that if the federal government talked about this, \$7,500 seems to be a reasonable figure and I see absolutely no reason why we should kill this excellent bill at this time. It seems like a very reasonable move and it will put us in conjunction with the federal government 90 days after we adjourn or just about the same time, October 1st.

I hope you will vote no on the pending motion.

The SPEAKER: The pending question is on the motion of the gentleman from Rockland, Mr. Gray, that the House indefinitely postpone the bill and all its accompanying papers. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

53 having voted in the affirmative and 65 in

the negative, the motion did not prevail.

Thereupon, Report B was accepted and the Bill read once.

Committee Amendment "A" (H-79) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Consent Calendar First Day

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

(H. P. 403) (L. D. 523) Bill "An Act to Create a State Compensation Commission" Committee on State Government reporting "Ought to Pass"

(H. P. 129) (L. D. 140) Bill "An Act Amending Certain Laws Relating to the Packing of Sardines" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-81)

(H. P. 182) (L. D. 232) Bill "An Act to Amend the Duties of the Commissioner of Education Relating to Bilingual Education" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-87)

(S. P. 144) (L. D. 320) Bill "An Act Relating to the Court of Probate of Aroostook County" Committee on Local and County Government reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 13, under listing of Second Day.

#### Consent Calendar Second Day

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

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

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

(H. P. 439) (L. D. 556) Bill "An Act to Include the Fire Chief or his Designees in Filing Statements of Fire Occurrence"

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

(H. P. 314) (L. D. 420) Bill "An Act to Revise the Laws Concerning Fire Exits"

(H. P. 280) (L. D. 358) Bill "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. 281) (L. D. 359) Bill "An Act to Clarify the Law Relating to the Maine Criminal Justice Sentencing Institute" (C. "A" H-80)

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

#### Passed to Be Engrossed Amended Bill

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

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

Mr. Cloutier of South Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-84) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

#### Passed to be Enacted

An Act to Strengthen Regional Library Systems (S. P. 77) (L. D. 166) (C. "A" H-28)

Was 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.

#### House at Ease

Called to order by the Speaker.

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

#### In Convention

The President of the Senate, Joseph Sewall, in the Chair.

On motion of Senator Katz of Kennebec, it was

ORDERED, that a Committee be appointed to wait upon the Honorable Vincent L. McKusick, Chief Justice of the Supreme Judicial Court and the Justices of the Supreme Judicial Court, and inform them that the two branches of the Legislature are in Convention assembled, ready to receive such communication as pleases them.

The Chairman appointed:

Senators:

COLLINS of Knox  
DEVOE of Penobscot  
TRAFTON of Androscoggin

Representatives:

HOBBS of Saco  
HUGHES of Auburn  
JOYCE of Portland  
CARRIER of Westbrook  
SIMON of Lewiston  
SEWALL of Newcastle  
GRAY of Rockland  
LAFFIN of Westbrook  
SILSBY of Ellsworth  
STETSON of Wiscasset

Subsequently, Senator Collins, for the Committee, reported that the Committee had delivered the message with which it was charged and that the Honorable Chief Justice and Justices of the Supreme Judicial Court were pleased to say that they would forthwith attend the convention.

At this point, the Honorable Chief Justice and Justices of the Supreme Judicial Court entered the Convention Hall amid the applause of the Convention, the audience rising.

The Honorable Chief Justice of the Supreme Judicial Court, Vincent L. McKusick, then addressed the Convention as follows:

President Sewall, Speaker Martin, Distinguished Members of the 109th Legislature, my fellow members of the Supreme Judicial Court, Ladies and Gentlemen:

Last year in closing my "State of the Judiciary" report to the 108th Legislature, I pledged that the Judicial Department would continue to follow the philosophy of life expressed by Oliver Wendall Holmes, Sr.:

"The great thing in this world is not so much where we stand, as in what direction we are moving. To reach the port of heaven we must sail sometimes with the wind and sometimes against it — but we must sail and not drift, nor lie at anchor."

In the past 12 months we have not lain at anchor, and I trust we have not drifted. The Judicial Department has done a lot of sailing. I welcome your invitation to report to you today on the course we have tried to sail.

The areas of necessary cooperation between you of the Legislature and us in the courts are many, indeed. Acting with the Chief Executive, you have weighty responsibilities in regard to the courts. You are called on to review and confirm the Governor's appointees to the Bench; you provide the financing for our courts and you fix the salaries of judges; you decide the structure and jurisdiction of our judicial system; and you enact or amend from time to time the substantive law which we judges apply in both civil and criminal causes. You rightfully expect to be kept fully informed about our courts, and we acknowledge freely our obligation to report to you on this and other occasions as you request.

Our Judicial Department four courts: First, the Supreme Judicial Court; second, the Superior Court, our trial court of broad, general jurisdiction. It is the only court with a jury with

broad equity powers, complete equity powers to issue injunctions. It hears most appeals from state and local governmental agencies and also appeals from the District Court, the Administrative and the probate court.

Third, is the District Court, our basic trial court that tries misdemeanors and all traffic and other civil infractions. It is our juvenile court and our Small Claims Court. It hears larger civil claims, up to \$20,000. Fourteen out of 15 divorces are heard in the District Court these days. It is the District Court that comes into contact with the greatest number of our citizens.

Finally there is the Administrative Court, which became a part of the Judicial Department the first of July, having not only its former jurisdiction to try liquor violations but also to try violations by almost any state licensee, a license of business, occupational, professional or environmental.

The 16 probate courts are not part of the judicial department. Our probate judges remain Maine's only elected judges and only part-time judges.

I want to say a few things about judicial manpower.

Our Maine judges are the most vital resource of the Judicial Department. No other state has succeeded in assembling a finer group of men and women in its judiciary. Our judicial partnership consists of 50 judges, 43 active judges and 7 active retired judges.

We are not recommending to you any increase in the number of judges at this session of the Legislature—this despite the substantial caseload increases in both the District and Superior Courts since the time one additional judge in each of those courts was last authorized six years ago. One reason we have been able, up to the present at least, to keep our mounting dockets in fairly good shape without additional judges is the availability of our seven active retired judges. These judges continue to serve on the bench when assigned without one penny of compensation; they get only the same pension they would get anyway if they had fully retired from judicial service. I hope that you will see fit to authorize the payment of a modest per diem for services actually rendered by active retired judges.

We greatly appreciate the action you have already taken in enacting L. D. 89, which gives us increased flexibility in assigning judges among courts. This new law will help us to marshal our available judges to get the whole job done in the best and most expeditious fashion. I assure you that the assignment of Administrative Court judges to sit in the District Court and District Court judges in the Superior Court will be done only with appropriate attention, first, to the fact that any judge's primary responsibility is to the court to which he was appointed and, second, to the necessity that any judicial assignments be matched with the assigned judge's skills and experience.

Also, to make optimum use of our Superior Court judges, we have this year instituted a new modified circuit system. It promises to increase the efficiency of the Superior Court by assigning individual judges to hold court at locations generally closer to their homes. The new assignment method, while cutting down the amount of unproductive travel time, hopefully will reduce the heavy toll that the former system of assignments anywhere around the State has taken on the health and family life of our judges.

We judges are increasingly conscious of the need for going to school—both for initial orientation when we are new to the bench and from time to time thereafter to improve our skills and keep up with new developments in the law and in court procedure. Our four District Court judges newly appointed in 1978 have prepared themselves for their new positions by working with and observing experienced District Court judges; and we are developing a more formal

and extensive program for judges who are appointed to the bench thereafter. With LEAA funding seven of our judges have in 1978 taken intensive courses of one week or more at the National Judicial College at Reno, Nevada and the Appellate Judges' Seminar at New York University. Some 15 others have attended shorter educational programs out-of-state. Some of our best judicial education is home-grown. Pursuant to statutory mandate, the Judicial Council sponsored a two-day Sentencing Institute on December 14-15. All Maine judges came together with corrections officials and other groups involved in the criminal justice system to discuss and hear discussed that most difficult and sensitive function of the trial judge. The first annual Judicial Conference, also mandated by statute, was held in February 1978: it provided a useful opportunity for all the judges to take stock of our court system. The 1979 Conference, to be held on next May 10-12, will concern itself with the rules of evidence and developments in the law of divorce.

Although the effort by our judges for continuing education have been wholehearted, they have had a certain hit-or-miss character. It has generally depended upon what programs might be offered elsewhere under a variety of sponsorships and upon what judges could fit those programs into their heavy trial commitments. It is our hope, during 1979, to develop and commence to implement a comprehensive and coordinated system for judicial education, that will make maximum use of our in-state capacities and that will achieve optimum educational benefits for all our judges, while minimizing the disruptions to our ongoing court operations.

#### Statistics of Court Operations

We have ready for distribution to you the annual report of the Administrative Office of the Courts giving the latest case statistics. Those statistics show that the court costs are running a big and growing business. I make no apology for applying the "business" label. Of course, the product or service of the courts is "justice," that is, the resolution of civil and criminal litigation. However, the courts' level of performance can be measured by some of the same standards as a business — a court, like a business, must strive to deliver its service with a minimum of delay and with cost efficiency. The Judicial Department is doing well in my judgment by both of those business tests — at least within the capacity of the physical facilities available to it. The reason I can make that good report is the competence and diligence of our Maine judiciary and, second, the capable and hard-working men and women, about 250 of them — clerks, court reporters, secretaries, court officers, etc. — who provide essential help to the judges in operating a system of courts at 51 locations around the State.

Applying the business label, of course, does not mean that the success of courts is to be measured by whether they turn a profit. Nonetheless, as you probably know, in the last fiscal year, the courts collected nearly \$5.8 million in fees and fines, most of which went into the undedicated General Fund. That figure is to be compared with the total amount spent from the General Fund for court operations in that fiscal year of about \$7.5 million.

The Law Court, despite the continuing rapid growth in the numbers of appeals filed, I can proudly report that it has substantially eliminated its backlog — only about 40 cases argued prior to this current March Term now await publication of the decisions. This achievement results from extraordinarily hard work by my brethren — the Law Court published a record 379 written opinions in 1978. There are, however, danger signs that unless something is done, the volume of appeals may before long outrun the capacity of the Law Court to handle its caseload with the high quality the public rightfully expects to continue. In 1978, 365 new cases — one a day, were filed in the Law Court. That is

an increase of over 35% in two years. Appeals increase even faster than the litigation growth in the lower courts; an increasing percentage of the cases below are being taken off. The Judicial Council is going to be attacking the question of the jurisdiction of the Law Court.

In the trial courts, the battle of the numbers also continues. Last year the Superior Court, without any additional judges, increased the number of cases disposed of by 15% on the civil side and 11% on the criminal side. Nonetheless, the filings, about 15,500 in 1978, continued to outrun the dispositions. Our 14 Superior Court justices, with the help of one active retired justice, are hard-pressed to keep on top of this caseload.

The striking thing about the District Court statistics for the last fiscal year is a 15½% increase in the filings — 216,000 new cases, as compared with 187,000, itself a staggering number, the year before. Even though about 40% of those District Court cases are traffic infractions that involve little judge time, the volume of District Court business is gargantuan by any standard. Like our Superior Court judges, our District Court judges, 20 active and 5 active retired, face an increasingly difficult challenge to keep abreast of that heavy docket.

The Superior Court has three regional presiding justices, Judges Glassman, Naiman and Roberts. The District Court is presided over by Chief Judge Dantor. I share responsibility with them in working with the State Court Administrator on court management problems of this sort — how better to cope with our growing caseloads. I am much indebted to all of them and to Judge Rubin, a regional presiding justice prior to his retirement in January, for their effective leadership and experienced counsel.

The big news from the Administrative Court is its successful reorganization by Administrative Court Judges Rogers and Cleaves. Up to March 1st, that is, during its first 8 months of expanded jurisdiction — 316 cases have been filed in the Administrative Court, about 70% of them still involving liquor violations. Probably the rate of new case filings will step up as licensing agencies become more familiar with enforcement through suits in that Court. Last July, the Supreme Judicial Court, as authorized by this Legislature, promulgated Administrative Court Rules of Procedure, which follow closely the Civil Rules of the District Court.

A success story in the District is the in-court mediation project. By that mediation project, judges select certain civil cases; for example, small claims and larger damage suits and support and property questions in divorce cases, and refer them to a mediator. The judges spot these cases as being likely prospects for settlement by the parties with the help of a mediator. If the mediation succeeds, the settlement comes back to the judge to be entered as a judgment of the court. If it fails, then the case goes ahead in its ordinary course. The specially trained mediators, many of whom are retired business and professional people, are succeeding in disposing of about 70% of the cases referred to them. When mediation is successful, it can reduce litigation costs and delays for the parties and avoid some of the bitterness that can remain after a full trial and adjudication. The original funding from the Maine Council for the Humanities and the Maine Labor Relations Board ran out at the end of the year. With the help of an interim \$10,000 grant from the Culpeper Foundation, we have been maintaining the splendid momentum of in-court mediation until this Legislature can consider our appropriations request for funding mediation as an ongoing court operation.

#### Matters of Court Management

As I told you last year, I view our 50 active and active retired judges as a judicial partnership, of which, if you like, I am merely the managing partner and the Supreme Judicial Court is the executive or management commit-

tee. Or, if you prefer the corporate model, the Chief Justice is the chief executive officer and the Supreme Judicial Court is the board of directors setting policy for the organization. In either model, the State Court Administrator, who serves under the supervision of the Chief Justice, is the operations officer playing an important role in court functioning. The Administrative Office of the Court performs, as provided by statute, valuable services in statistical, personnel, fiscal, procurement, facilities, and other administrative matters. With a limited staff, the Administrative Office does a fine job working with the other nonjudicial personnel to relieve us judges from administrative detail — to save us judges for judging.

In setting policy for the courts, the Supreme Judicial Court is advised by a number of committees with judges representation from the other courts. By way of illustration, Justice Pomeroy heads a Committee on Court-Appointed Counsel. It is investigating ways of improving our existing system for discharging our constitutional obligation to provide counsel at public expense to indigent persons charged with anything more than the most minor crimes. Both the societal and the financial significance of the Committee's work is obvious; in the last fiscal year, representation of indigent criminal defendants cost \$784,000, over 10% of the entire Judicial Department budget. In looking into such questions as selection, continuing legal education, and compensation for appointed counsel, the Pomeroy Committee is being aided by a study project directed by Professor Judy Potter of the University of Maine Law School. This has modest LEAA funding. The Committee expects to have a recommendation for action by the Court within the next few months.

Justice Wernick chairs the Advisory Committee on Court Management and Policy. This Committee, which includes in its membership the Senior Justice of the Superior Court and the Chief Judges of the District Court, was set up 15 months ago to guide in Maine a court planning project which was specially funded nationally by LEAA here and in 5 other pilot states. Like the good Mainers that they are, the Committee used the funds not for studying planning, but rather for demonstrating planning capability by doing. On their recommendation, the Court has changed its policy on sequestering juries. The Committee has produced a jurors' handbook, has undertaken, with the help of a special subcommittee from outside the courts, a major review of the small claims court, and with the help of an actuarial consultant has prepared for the Judicial Council a proposed pension plan for judges who go on the bench after the first of January next year. In my judgment, the Advisory Committee on Court Management and Policy, with modest funding, should be a permanent feature of the Judicial Department.

Justice Archibald heads the very important Committee on Court Facilities, which has made a comprehensive examination of the physical plant at our 51 court locations around the State. I'll have more to say about its findings in a moment.

Justice Delahanty leads the Committee on County Law Libraries, which with membership from outside the courts. Legislation has been filed with you as a result of their labor.

I have already spoken of continuing judicial education. Justice, former Dean, Godfrey is appropriately chairman of our judges committee on that subject. And Justice Nichols chairs the judges Committee on Court Reporters, working with those professionals to meet any problem arising in producing prompt and accurate records of court proceedings. These committees, which put into service the experience and judgment of judges from all our courts, are proving useful instruments for investigation and resolving policy questions in court operations.

Also, I want to report to you on the Committee on Judicial Responsibility and Disability. A year ago, the Legislature authorized the Supreme Judicial Court to create by rule a committee to receive complaints, to make investigation and, as appropriate, to submit recommendations to the Supreme Judicial Court in regard to discipline, disability, or retirement of any judges of the Judicial Department and of the probate courts. (4 M.R.S.A. § 9-B, enacted by chapter 638, Laws of 1978.) Pursuant to that legislation, the Supreme Judicial Court created a seven-member Committee consisting of 3 lay persons lawyers, and 2 judges from the lower courts. The five lay and lawyer members are nominated by the Governor. Effective on that date the Supreme Judicial Court appointed the 7-member Committee, with James H. Page of Caribou, former chairman of the University of Maine Trustees, its Chairman, and Professor David D. Gregory of the University of Maine Law School its Secretary. In investigating and deliberating upon complaints against judges, the Committee operates entirely independent of the Chief Justice and the Supreme Judicial Court.

#### The Legal Profession

In the past year the Supreme Judicial Court has also been active in discharging its responsibilities with regard to the legal profession.

Our system of justice — both civil and criminal — is an adversary system. In that system, attorneys are essential to the guarantee of the legal rights of our citizens. Both the federal and Maine Constitutions declare as one of the fundamental rights of every citizen the right to be represented by counsel of one's choice. Not without reason, lawyers are called "officers of the court."

Maine is fortunate that it has always had a bar of high quality. With very few exceptions, Maine lawyers have been and are competent and upright and vigorous. The purpose of the Court in causing a Maine Code of Professional Responsibility to be drafted and in creating a Board of Overseers of the Bar should not be misunderstood. The Court took that action in 1978 for the purpose of preserving and enhancing the already high quality of Maine's legal profession.

In regard to admissions to the Maine bar, the Supreme Judicial Court has the assistance of the Board of Bar Examiners, which investigates the "legal learning" and "moral character" of each applicant for admission and makes recommendations to the Court. In 1978, the rising tide of new Maine Lawyers coming into the legal profession in Maine slowed. One hundred fifty-three new lawyers were admitted to the Maine bar, down from 207 the year before.

A Selected Commission on Professional Responsibility, consisting of 4 lay and 11 lawyer members, with Dr. Strider of Colby College as Chairman and former Dean Prunty as Reporter and Counsel, has performed yeoman service. Working for the past 12 months, they have drafted a proposed code of lawyer conduct. This afternoon the full Supreme Judicial Court is holding a hearing at the Kennebec County Courthouse on the proposed Code. If adopted as a rule of court, it will for the first time in Maine provide a body of substantive rules guiding the practice of what Justice Frankfurter used to call "the public profession of the law."

Already fully operating is the Board of Overseers of the Bar, which has been given by order of the Supreme Judicial Court the functions of annually registering all lawyers authorized to practice in Maine, of investigating and making appropriate recommendations to the Court on grievance complaints against lawyers, and of arbitrating fee disputes at the option of clients. The functions of the Board are financed by an annual registration fee. The Board of Overseers of the Bar, consisting of 3 laymen and 6 lawyers, is chaired by Franklin G. Hinckley of Portland. The Board has, with the approval of

the Court, appoint Michael E. Barr of Readfield to serve as full-time Bar Counsel. The Board has designated a Grievance Commission and a Fee Dispute Arbitration Commission, each consisting of 12 members, a quarter of them lay persons. The Board has nearly completed its first registration of lawyers. A total of 1527 lawyers have so far registered for active in-state practice, of whom 362 have been admitted within the past three years and 24 were admitted over 50 years ago. For the first time, we know the number of active practicing lawyers in Maine.

#### Our Most Pressing Problem: Inadequate Court Facilities

The most pressing problem facing Maine courts today is the severely inadequate physical facilities at many of the 51 trial court locations. Many courts simply lack the space and other facilities needed to handle their growing caseloads and to assure that jurors, litigants, witnesses, attorneys, and other citizens with business at the courthouse can conduct it without delays, discomfort, or embarrassment. As opposed to my necessarily general assessment of last year, we are this year, as a result of the work of the Committee on Court Facilities headed by Justice Archibald, able to report to you the specific facilities needs at each court location — both right now and over the medium term future, 15 years down the road. The Archibald Committee has been aided by a team of consultants knowledgeable in architectural engineering and court operations. Our building needs were measured by a conservative set of criteria for proper court facilities, fixed by Justice Archibald's Committee on the consultants' advice. The Summary of their Final Report will be delivered to each of you today.

Let me illustrate our statewide facilities problem by giving you the consultants' findings in regard to the Superior and District Courts housed in the Cumberland County Courthouse. That courthouse is the busiest in the State, handling 19% of the Superior Court caseload statewide and nearly 16% of that of the District Court. The consultants find that the Superior Court in Portland has only 61% of the area it should have by conservative criteria, and the District Court is even worse off, having only 36% of the space required. These severe inadequacies in the Portland facilities are taking their toll. There are simply not enough courtrooms available to permit all cases to be tried as soon as ready. Civil cases pile up because we must, for constitutional and public policy reasons, give priority to criminal matters. Although both courts in 1978 did a remarkable job in increasing the total number of cases disposed of, the backlog of civil cases awaiting trial grew disturbingly. And we know that citizens with business at the Cumberland County Courthouse have been ill-served because of the inadequacy or entire absence of proper facilities for their use. Portland is not alone in this undesirable situation. We are faced with a statewide problem.

The facilities needs of our courts are not going to be quickly or easily solved, but we are at the point where we can make a real start. We now know the general dimensions of the needs at each of our 51 court locations. It is the province of this Legislature, with the concurrence of the Governor, to authorize the next steps: first, the creation of a mechanism for specifically planning and arranging for the needed construction or renovations in staged phases and, second, the appropriation of initial funding. In the course of your deliberations over the court facilities problem, we suggest a general principle that you might follow in its solution. The Maine District Court law provides a ready-made, well-tested model for carrying out state funding of all court facilities. The Judicial Department is prepared — if you see fit to authorize it — to take on the same responsibility for arranging the construction or renovation of facilities for all the courts that

the Chief Judge of the District Court has exercised at all times since that Court was created by the 1961 Legislature. We believe also that the State, through the Judicial Department, should assume full financial responsibility for the facilities of the Superior and Supreme Judicial Courts, in the same way the State has always borne the financial responsibility for all 33 locations of the District Court. Thus, all the courts should, we suggest, have the same authority to construct state-owned facilities or to lease from the counties, municipalities, or private owners, as the District Court already has.

Like so many problems you must deal with, the question finally comes down to money. We recommend that a substantial start be made now on funding a program to provide the courts adequate facilities. In connection with the court facilities bill we have submitted for your consideration, we request funding for construction or renovation at three Superior Court and four District Court locations having the most critical need. The capital cost of that initial phase would be about \$10 million toward a full program statewide over a period of 15 years of about four times that amount.

Bricks and mortar, of course, cannot by themselves make a good court system. In its judicial branch, however, Maine already has the quality people and most of the other components of excellent courts. The program that we are submitting to you for improved and enlarged physical facilities will help the Judicial Department to realize its full potential of good service to the public.

#### Conclusion

In the first volume of the Maine Revise Statutes, under the heading "Organic Laws of the United States," you will find — along with the United States Constitution and the Declaration of Independence — a document signed by an English king on a meadow outside London over 750 years ago. That document is the Magna Charta. In paragraph 40, King John declared, "To none . . . will we deny, or delay, right or justice." Today that exactly states the twin objectives, not always easy to attain, toward which the Maine judiciary steadily strives. To none will we deny, or delay, right or justice.

We of the judiciary are deeply appreciative of the understanding cooperation extended to us over the past year by the other two great Branches of Government — by the Legislature and by the Chief Executive. President Wilson once said, "A society is as good as its courts — no better and no worse." Thus, you in the Legislature have in common with us in the judiciary a stake in improving our courts and in improving at the same time the quality of life in our beloved State of Maine.

The Chief Justice and Associate Justices of the Supreme Judicial Court withdrew amid the applause of the Convention, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved.

The Senate then retired to its Chamber, amid applause of the House, the members rising.

#### In the House

The House was called to order by the Speaker.

#### (Off Record Remarks)

On motion of Mr. Peterson of Caribou, Adjourned until nine-thirty o'clock tomorrow morning.