

# 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, March 21, 1979

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

Prayer by the Reverend Stuart Price of the Minot Corner United Methodist Church, Sabat-tus.

Reverend PRICE: Dear Lord, who is the father of us all, we pause this day to remember your love and your care for each one of us. We are thankful for your continued presence, even when we become involved in the haste and activity of our daily living and tend to forget your presence. We pray that your spirit of love and caring will be present in these chambers today and every day, and even though best solutions to problems may be difficult to find and the ideas of what is best may be widely separated, we pray that your spirit will be present in the determination of those policies, that those policies will be made with continued friendship and respect.

Guide those, this day, that have been elected to rule over us, that their decisions will be established for the welfare of those who are your children. We would also remember those who are not able to be here this day because of illness or other problems within the lives of their families. We pray your guiding spirit and healing presence will be with them. This, in Christ's name, we pray. Amen.

## Papers from the Senate

Bill "An Act to Amend the Law with Regard to the Diagnostic Laboratory of the Department of Human Services" (S. P. 406) (L. D. 1245)

Bill "An Act to Aid Recovery of Medicaid Funds" (S. P. 408) (L. D. 1254)

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

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

Bill "An Act to Amend the Charter of the Portland Water District" (S. P. 404) (L. D. 1255)

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

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

## Report of Committees

## Leave to Withdraw

Report of the Committee on Health and Institutional Services reporting "Leave to Withdraw" on Bill "An Act to Facilitate the Placement and Care of Handicapped Individuals in Skilled Nursing Facilities and Intermediate Care Facilities" (S. P. 231) (L. D. 683)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Create the Division of Assistance for Small Business" (S. P. 305) (L. D. 905)

Came from the Senate with the Reports read and accepted.

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

## Non-Concurrent Matter

Bill "An Act to Create the Bruce McCrea Game Sanctuary in Fort Fairfield" (H. P. 933) (L. D. 1175) which was referred to the Committee on Agriculture in the House on March 14, 1979.

Came from the Senate referred to the Committee on Fisheries and Wildlife in non-concurrence.

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

Non-Concurrent Matter  
Tabled and Assigned

Bill "An Act to Exempt Teacher Certification Records from the Freedom of Access Stat-

utes" (H. P. 953) (L. D. 1186) which was referred to the Committee on Judiciary in the House on March 14, 1979.

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

In the House: On motion of Mr. Connolly of Portland, tabled pending further consideration and later today assigned.

## Non-Concurrent Matter

Bill "An Act Raising the Amount of the Homestead Exemption in Attachment and Bankruptcy Proceedings" (H. P. 419) (L. D. 532) which was passed to be engrossed as amended by Committee Amendment "A" (H-79) in the House on March 13, 1979.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-79) as amended by Senate Amendment "A" (S-42) thereto in non-concurrence.

In the House: On motion of Mr. Rolde of York, the House voted to recede and concur.

## Non-Concurrent Matter

Bill "An Act to Provide for a Student Member of the Board of Trustees of the University of Maine" (H. P. 155) (L. D. 194) on which the Minority "Ought to Pass" as Amended by Committee Amendment "A" (H-88) Report of the Committee on Education was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-88) as amended by House Amendment "A" (H-100) thereto in the House on March 16, 1979.

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

In the House:

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

Mr. CONNOLLY: Mr. Speaker, I move that we insist and ask for a committee of conference.

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

Mr. BIRT: Mr. Speaker, I move the House recede and concur.

The SPEAKER: The gentleman from East Millinocket, Mr. Birt, moves that the House recede and concur.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I would hope you would oppose the motion to recede and concur so that we can ask for a committee of conference with the other body.

It is my understanding that there is room for compromise on this particular piece of legislation and where the votes have been very close on this matter, it does seem that we might be able to sit down and work out an agreement.

I would hope that you would vote against the motion to recede and concur so that we can insist and have a committee of conference.

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

A vote of the House was taken.

49 having voted in the affirmative and 60 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Connolly of Portland, the House voted to insist and ask for a Committee of Conference.

## Messages and Documents

The following Communication: (H. P. 1113)

State of Maine

Office of Secretary of State

Augusta, Maine

March 19, 1979

To the Honorable 109th Legislature of the State

of Maine

Attention: House of Representatives, Clerk Pert

Info: Senate, Secretary Ross

I have the honor to transmit herewith the results of the examination by this office of the initiative petitions relating to "AN ACT to Repeal the Forced Deposit Law."

The minimum number of valid signatures required to initiate this legislation is 37,026. On February 20, 1979 our office received 1,291 petitions said to contain 45,572 signatures. After extensive review we have determined the number of valid signatures to be 38,034.

In view of the foregoing determination, I hereby certify that these petitions have met the constitutional requirements of the minimum of 37,026 valid signatures. Since the petitions have previously satisfied the constitutional requirements in all other respects, under the provision of Article IV, Part Third, Section 18, of the Constitution of Maine, I do hereby declare this initiative petition to be valid.

Respectfully

S/RODNEY S. QUINN

Secretary of State

The Communication was read and ordered placed on file and sent up for concurrence.

## Petitions, Bills and Resolves

## Requiring Reference

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

## Appropriations and Financial Affairs

Bill "An Act Appropriating Additional Funds to the Department of Agriculture for Enforcement of the Wood Measurement Act for the Fiscal Year Ending June 30, 1979" (Emergency) (H. P. 1118) (Presented by Mr. Mahany of Easton) (Cosponsors: Mr. Martin of Eagle Lake, Mr. Hall of Sangerville, and Mrs. Locke of Sebec)

Committee on Agriculture was suggested.

On motion of Mr. Pearson of Old Town, referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

Bill "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine Teachers' Association for Employees in the Bargaining Unit of Instructors at the Vocational-Technical Institutes and the School of Practical Nursing" (Emergency) (H. P. 1119) (Presented by Mr. Pearson of Old Town) (Cosponsor: Mr. Morton of Farmington)

Bill "An Act Relating to Municipal Recreation Grants" (H. P. 1120) (Presented by Mr. Hall of Sangerville)

(Ordered Printed)

Sent up for concurrence.

## Business Legislation

Bill "An Act to Require that Insurance Coverage for Outpatient Community Mental Health Services be Provided in Group Health Care Policies and Contracts" (H. P. 1121) (Presented by Mr. Brodeur of Auburn)

Bill "An Act Eliminating the Requirements for Licensing Retail Cigarette Outlets and Cigarette Vending Machines" (H. P. 1122) (Presented by Mr. Kane of South Portland)

(Ordered Printed)

Sent up for concurrence.

## Joint Select Committee on

## Correctional Institutions

Bill "An Act to Clarify Transfers from County Jails to the Correctional Facilities" (H. P. 1123) (Presented by Mr. Cloutier of South Portland)

(Ordered Printed)

Sent up for concurrence.

## Education

Bill "An Act to Form the Boggy Brook Vocational School" (Emergency) (H. P. 1124) (Pre-

sented by Mr. Silsby of Ellsworth)  
(Cosponsors: Mr. Bordeaux of Mount Desert, Mr. Bunker of Gouldsboro and Mr. Churchill of Orland)

Bill "An Act to Provide Funds for Side-by-side School as a Demonstration Project for Alternative Education Programs" (Emergency) (H. P. 1125) (Presented by Mrs. Mitchell of Vassalboro) (Cosponsor: Mr. Connolly of Portland)

(Ordered Printed)  
Sent up for concurrence.

#### Energy and Natural Resources

Bill "An Act to Make Substantive Changes in the Forestry Statutes" (H. P. 1126) (Presented by Mr. Hall of Sangerville)

(Ordered Printed)  
Sent up for concurrence.

#### Taxation

Bill "An Act to Recodify and Resolve Minor Administrative Problems in the Forestry Statutes; and Reorganize the Maine Forestry District" (H. P. 1127) (Presented by Mr. Hall of Sangerville)

Committee on Energy and Natural Resources was suggested.

On motion of Mr. Blodgett of Waldoboro, was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

#### Health and Institutional Services

Bill "An Act Concerning Maine's Maternal and Child Health Care Program" (H. P. 1128) (Presented by Mrs. Nelson of Portland) (Cosponsor: Mr. Brodeur of Auburn)

(Ordered Printed)  
Sent up for concurrence.

#### Judiciary

Bill "An Act to Increase Fees Charged by Bail Commissioners" (H. P. 1129) (Presented by Mr. Brannigan on Portland)

(Ordered Printed)  
Sent up for concurrence.

#### Later Today Assigned

Bill "An Act to Amend the Split Sentencing Provisions of the Criminal Code" (H. P. 1130) (Presented by Mr. Cloutier of South Portland)

Committee on Judiciary was suggested.  
Mr. Cloutier of South Portland moved that the Bill be referred to the Joint Select Committee on Correctional Institutions

On motion of Mrs. Prescott of Hampden, tabled pending the motion of Mr. Cloutier to refer to the Joint Select Committee on Correctional Institutions and later today assigned.

#### Labor

Bill "An Act Concerning Dispute Resolution under the Municipal Public Employees Labor Relations Statutes" (H. P. 1131) (Presented by Mr. Tuttle of Sanford) (Cosponsors: Mr. Lancaster of Kittery, Mr. Rolde of York and Mr. Wood of Sanford)

(Ordered Printed)  
Sent up for concurrence.

#### Public Utilities

Bill "An Act to Permit Municipal Water Departments and Quasi-municipal Water Districts to Provide a Contingency Reserve" (H. P. 1132) (Presented by Mr. Brown of Livermore Falls) (Cosponsors: Mr. Michael of Auburn and Mr. Leighton of Harrison)

Bill, "An Act Concerning Warning Signs Posted at Certain Railroad Grade Crossings under the Public Utilities Commission" (H. P. 1133) (Presented by Mr. Stetson of Wiscasset) (Cosponsor: Mr. Carroll of Limerick)

Bill "An Act Relating to Telephone Company Directories" (H. P. 1134) (Presented by Mr. Wood of Sanford) (Cosponsor: Mr. Torrey of Poland)

(Ordered Printed)  
Sent up for concurrence.

#### State Government

Bill "An Act Relating to the Maine Criminal Justice Academy" (H. P. 1135) (Presented by Mr. Paradis of Augusta)

(Ordered Printed)  
Sent up for concurrence.

#### Study Report

##### Committee on Taxation

Mrs. Post from the Committee on Taxation to which was referred the Study relative to The Tree Growth Tax Law, Pursuant to H. P. 2271 of the 108th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Amend the Tree Growth Tax Law" (H. P. 1115) (L. D. 1244) be referred to the Committee on Taxation for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on Taxation, ordered printed and sent up for concurrence.

#### Orders

An Expression of Legislative Sentiment (H. P. 1116) recognizing that: Mabel E. Chandler of Dexter, widow of the late Honorable Frank E. Chandler of Dover will celebrate the one hundred and first anniversary of her birth on March 22, 1979.

Presented by Mr. Sherburne of Dexter (Cosponsor: Senator Emerson of Penobscot)

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

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls.  
Recessed until the sound of the gong.

#### After Recess

10:45 A. M.

The House was called to order by the Speaker.

An Expression of Legislative Sentiment (H. P. 1117) recognizing that:

Mrs. Annie B. McGown, distinguished citizen of the City of Ellsworth, recipient of the Boston Post Cane Award and elder family member of five living generations, celebrated on March 15, 1979, the 101st anniversary of her birth with Monroe and Marcia McGown, Jr., her son and daughter-in-law along with friends of the community

Presented by Mr. Silsby of Ellsworth (Cosponsor: Senator Perkins of Hancock)

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

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative John Simon of Lewiston be excused March 21, March 22, and March 23, 1979 for personal reasons

#### House Reports of Committees

##### Ought Not to Pass

Ms. Benoit from the Committee on Election Laws on Bill "An Act to Change the Date of the Primary Election to the First Thursday after Labor Day" (H. P. 2) (L. D. 8) reporting "Ought Not to Pass"

Mr. Dellert from the Committee on Legal Affairs on Bill "An Act to Provide for Public Rest Room Facilities in Shopping Centers" (H. P. 408) (L. D. 511) reporting "Ought Not to Pass"

Mr. Jacques from the Committee on Transportation on Bill "An Act to Assist Snow Removal and Improve Highway Safety" (H. P. 327) (L. D. 404) reporting "Ought Not to Pass"

Mrs. Hutchings from the Committee on Transportation on Bill "An Act to Permit the Use of Flashing Red Lights on Vehicles Used by Doctors and Osteopaths" (H. P. 572) (L. D. 720) reporting "Ought Not to Pass"

Mr. Lougee from the Committee on Transportation on Bill "An Act Concerning the Defi-

nition of Urban Compact Area" (H. P. 516) (L. D. 630) 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. Strout from the Committee on Transportation on Bill "An Act to Allow Municipal Law Enforcement Officers to Use Blue Flashing Lights on Personal Vehicles During an Emergency" (H. P. 616) (L. D. 757) reporting "Leave to Withdraw"

Mr. Davies from the Committee on Public Utilities on Bill "An Act Concerning Residential Utility Consumer Action Groups" (H. P. 351) (L. D. 468) reporting "Leave to Withdraw"

Mr. Connolly from the Committee on Education on Bill "An Act to Require Instruction in the Public Schools on the Ill Effects of Alcohol, Tobacco and Other Substances" (H. P. 590) (L. D. 745) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought Not to Pass" on Bill "An Act to Reinstate Mandatory Retirement for Certain Law Enforcement Officers" (H. P. 452) (L. D. 566)

Report was signed by the following members:

Messrs. LOVELL of York  
SILVERMAN of Washington  
TEAGUE of Somerset

— of the Senate.

Mrs. NELSON of Portland  
Messrs. DELLERT of Gardiner  
CHURCHILL of Orland  
LOWE of Winterport  
PAUL of Sanford  
STUDLEY of Berwick  
HANSON of Kennebunkport

— of the House.

Minority Report of the same committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-112) on same Bill.

Report was signed by the following members:

Messrs. REEVES of Newport  
THERIAULT of Rumford  
HICKEY of Augusta

— of the House.

Reports were read.

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

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

The SPEAKER: The gentlewoman from Portland, Mrs. Nelson, moves that the Majority "Ought Not to Pass" Report be accepted.

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

Mr. THERIAULT: Mr. Speaker and Members of the House: I hope you will not accept the "Ought Not to Pass" Report. No matter what happens in this world of ours, there are always exceptions to the rule. This bill would be an exception to the rule on mandatory retirement.

In the 108th, we passed a bill doing away with mandatory retirement for all state employees. In doing this, we seem to have forgotten one very important group of people, the law enforcement people. Members of the House, we do not want nor do we intend to try to return the mandatory retirement for everyone, but we must realize that there just has to be an exception to this rule.

We are not using this as foot-in-the-door approach for returning to mandatory retirement. Whether you want to believe it or not, the police profession has to be a young person's profession. I do not like the idea of anyone, not even a police officer, retiring in their forties,

but it is my firm belief that 55 years of age should be tops for police officers.

Consider this. A police officer not only endangers his own life, but his fellow officers' lives depend on how well and how quickly he does his work. More important still, it could very well be your own life that is on the line if the officer makes an error or is slow in doing his job.

At my age, I know that my reaction time, both physical and mental, is much slower than it was 15 years ago. All of you, if you are honest with yourselves, know that as you grow older you slow up, no matter how well you keep yourself physically and mentally. In police work, delay can be fatal both for the officer or the person he is trying to help. He may fire at a target sometime before he realizes it is the wrong target.

Does any person here who has never been in law enforcement work realize that at times an officer has to make a split-second decision, and the result of that decision will sometimes drag through the courts of the land for years, to the Supreme Court of the United States, and be acted on by the most learned people in the country to decide whether he was right or wrong? A split-second decision can be thrust upon an officer at any moment. He never knows when he answers a call what the end result will be.

Honestly now, if you knew your life depended on him, would you prefer to have a 30-year-old officer or a 60 or, yes even a 70-year-old or older officer to protect you? We pay police officers to protect our lives, our families and our property. Who can do it best, a young person or an old person?

For years, police officers have appeared before our committee and pleaded with us to have their age of retirement lowered. They all told us the same thing — the work was too strenuous and dangerous for the older person. Whether we pass this bill or not, most of these officers will retire before age 55 anyway, but there will always be a few, if the bill is not passed, who will continue no matter how dangerous it could be for themselves or their partners or the people they are supposed to protect.

I have been a police officer for more years than I care to remember. I have never been a hero, and the older I got, the more I hated to go on a call. I don't think I was different from other officers then or now.

Please, give the people of Maine a break. Pass this bill with the committee amendment. The amendment makes an exception for the public service commissioner and the chief of the state police. Both these positions are appointed, with the nominations taken care of by the legislature, which can decide whether the person continues to be physically and mentally able to perform the job. Incidentally, these jobs are actually no longer police but administrative work.

I might say to you that police officers are police officers 24 hours a day, 7 days a week, 52 weeks a year. They may be on vacation or a day off, but if an emergency arises, they have to come back to duty anytime, day or night. Any person in law enforcement, be he working at a desk or in a patrol car, never knows when he will be called on to perform some act that, depending on how he does the job, might well decide whether someone will live or die. That someone might be his partner or he, himself, or it might even be you. Think about it, think about it seriously, for what we do here today is really a matter of life and death.

Please vote against the motion of "Ought Not to Pass", so that we eventually can pass this bill and improve the safety of all the people of our state.

Before I sit down, I want to apologize to the ladies if I keep referring to the police officer as a male. The police profession is no longer one where only men are involved in the front lines; the ladies are becoming more and more involved. This was not so in my day and I tend to

forget — sorry.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I, too, served a lot of years as a police officer, and at my age at the present time, I don't feel that I would be a very efficient police officer out on the road. I remember times when I stopped a whole carload of drunks at two o'clock in the morning, ten miles from any town, and went into it with no fears, but I would be very reluctant at this point in my years to go out there and do the same thing.

Secondly, just recently we had a man retire from the state police after 50 years of service. Now, I challenge any one of you people to take the choice between a man of 50 years of police service and a 30-year-old man. I think probably the choice would be the latter; I know mine would.

I feel that police work is unique in that it is a young man's job, and I agree completely with Mr. Theriault's remarks. He is a police officer of long experience and he knows what he is talking about. I think if you talk to very many people who are involved in police work, they would agree that police work is a young person's occupation.

We have the retirement system for police officers at a point where they are well taken care of after they have reached their age of 55, and I think they could find something else to do besides police work, because as age increases, efficiency decreases because of the more conservative thinking. It is just a young man's occupation, and I think we should pass this bill.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: This bill does one thing that disturbs me most. It says it is fine to discriminate against one group of public employees because of age. They are trying to say that a person 54 years old is competent to do the job and has the ability; yet, upon turning 55, that person is unqualified. There is no justification, in my mind, for firing citizens solely because of a birthday. Their experience and their ability must be worth something.

The abolition of mandatory retirement has not been on the books long enough to see its effects on these law enforcement officials. Yet, the supporters already want to erode the law.

There are expensive criteria that apply to applicants for jobs in these departments; yet, there is no in-service testing requirement to tell if a 30 year old is doing his job as well as an older employee.

Present law states that a public employer may establish reasonable criteria and standards of job performance to be applied to all employees to determine if employees shall be terminated. Why can't law enforcement agencies do this? Why can't officers be tested every three or every five years?

The duties of law enforcement are, indeed, strenuous, I agree with that. People who are law enforcement officers should be physically and mentally fit. They should be released if they can no longer perform their duties as the job demands, whether they are 35 or whether they are 55. Some of the best officers that I have ever seen in the Portland Police Department were the older officers, and I don't believe that they should be put out to pasture just because of their age.

Presently, there are only three law enforcement people in state government over 50 years of age. Why don't we use them as a test to see if older workers can do the job? If abolition of mandatory retirement does not work out for these people in the next few years, then let's discuss it then, but until then, let's give this law a chance to work.

You know, mandatory retirement has affected my family and I know what it can do to a person. Let's allow ability to perform the job

be the determining factor, not age, and let's support the "ought not to pass" report.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: In my constituency, I have a game warden supervisor who joined the warden service some 28 years ago. When he joined the warden service, the retirement age was 60 years of age. The last legislature, we did away with mandatory retirement ages, and now we are going to impose a 55-year cutoff for game wardens such as this gentleman.

He called me about the situation and was very upset. He said, "I put in 28 years of my life into the warden service and now they are going to drop me off next October and I haven't prepared for other work." I think in the warden service, unlike some other areas of law enforcement, the wardens don't get around to get into other lines of work on a part-time basis. I think it would create a hardship on a person of this kind, and I understand there are two or three others around the state in the same situation, so I hope this legislation does not pass, but if it does pass, I hope that we can amend it so as to grandfather in the people who will reach 55 within the next year.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Hanson.

Mr. HANSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to share with you a few thoughts that I had listening to the committee testimony on the day it was given.

At the committee hearing, there were three departments involved — the Department of Public Safety, the Department of Inland Fish and Game and the Department of Marine Resources, so we are talking about three distinct departments of law enforcement and not just the police but also wardens. Their testimony was similar to that given here today, basically the same. When a man or woman reaches the age of over 50, especially at 55, they can no longer function on the job, that their duties are too risky. The men and women no longer have the reflexes to perform. They have lost their enthusiasm, their desire, a total risk to our society.

Now, I say to these statements by the three actors in the drama, put daddy into the toll booth or back onto the boat, that they are generalizations, to say the least, and the departments know this. They have another alternative in this, I am sure.

I would like to read to you an article that was published in a paper here in Maine February 22, 1979. "Local man is warden of the year. A veteran game warden from Hartland has been selected Maine's Warden of the Year for 1978. Norman A. Gilbert, 56, a game warden with the Inland Fisheries and Wildlife Department, was named for the honor for his excellent work, outstanding dedication and enthusiasm for all of the warden service activities." Now, this really leaves me a little bit confused, because at the committee hearing, I heard from these same gentlemen that at the age of 55, the work decreased, the dedication was not there, or the enthusiasm. I say this is a direct contradiction to those remarks.

I would like also to point out that a lot of our marine wardens on retirement go back into fishing, and we have a lot of men 55 years or older that are out on the waters today, side by side with men younger, fishing 10, 50, or 100 miles off shore. They are risking their lives every day, and they have to depend upon their reflexes and their quick thinking to survive and not join permanent residence in Davey Jones' locker.

Unfortunately, on the police, my memory, if it serves me correctly, some of our tragedies have not been with the older men but with the younger policemen that have been on service.

The fire department — I read an article in a Boston paper and it started to make me think also, because there was a picture of a fireman

coming down a ladder with a baby in his hands. The caption said, "Fireman, 54 years old, by his quick thinking saved baby from falling six stories." Now I ask you, if this man is dedicated enough, if he has the reflexes and quick thinking to be on a ladder and save a baby from falling from his mother's arms, then I will trust him with my life also.

Ladies and gentlemen of this distinguished body, we cannot and we should not generalize that all human beings have gone by their job potential because someone in a department has set a certain age. There are the exceptions, true, and those exceptions do have a rich resource for us. I say this, that the people in these three departments have a choice now to retire after 20 years of service. Those who feel they have had enough of the everyday pressures, that they can no longer function on the job, can retire at an early age, but those who feel they have the expertise to continue, the knowledge and the ability to contribute to our state services, then they should have that choice. The state, by depriving us of these men and their knowledge, will be depriving us of a resource of great talent that they can pass down to their younger counterparts in service.

The 108th, in their wisdom, passed a law to do away with mandatory retirement in this state for the public sector, and that stand should also be taken by this body today. I am hopeful that you will vote with the majority report of "ought not to pass."

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: Being the sponsor of this bill and believing in this bill, I feel today that I should defend this bill.

I would like to have you for one moment stop and think what Representative Theriault said when he said "Your partner." You know, unless you have been in a situation where you need a partner, you don't know what he is talking about.

I would like to say to some of the members of this House, it is very easy for you to be opposed to something that you don't understand, because my very good friend from Portland, it is very evident to me from his statements that he has never been in this type of situation.

I will agree with the gentleman on the other side of this hall — there are exceptions. Some men are young at 60, but when you get into situations that are dangerous, you want a young man with you because, remember, it is not the Generals that fight the wars, it is the young men of this nation that fight wars and keep us free. They don't put Generals on the battlefield, and the reason for that is, they are not capable of fighting, they are capable of directing.

What my bill does, it converts three sections — the State Police, the Department of Fisheries and Wildlife and the Department of Marine Resources. As you know, Marine Resources are the people who go get these people on the coast who are slipping drugs into this state, and those people carry guns. Those are the people they go after. The Fisheries and Wildlife wardens are in the woods, and that is very hazardous. That is a hard grind for a man in his fifties. The State Police, of course we all know what they do.

For a moment, I would like to ask some of you, you know, I retired from the fire service in my community a couple of years ago and while I was getting ready to retire, I said, oh, this department can't run without me; I am as good today as I was 20 years ago, but I was only fooling myself. Before I did get out of the service, we had a very bad fire and I realized then that I couldn't do what I could have done. I remember one time when I went into a burning building and we had an elderly man from the department with me, and I was more worried about him than I was about the building. You don't know those things unless you are actually

involved.

We are not talking today about a person sitting behind a desk. I think people who sit behind desks, like we do, are capable of doing this job up here and making decisions whether we are 21 or whether we are 80 or 90. I think that Mr. Jalbert, who has been a member of this House for many years, is just as qualified today to make a decision as he was 20 years ago. No problem, he is very qualified and so are many of the others, but I don't think Mr. Jalbert is very qualified to go into a hazardous position, because he hasn't been under those conditions, and that is what we are talking about today. We are not talking about opening the mandatory retirement, we are not talking about that this morning; we are talking about letting people work on, and I agree with some of the things that have been said that because a birthday comes you all of a sudden do not lose your knowledge. Of course you don't; we all understand that. But when you are talking about physical strength, that is another thing.

We don't lose our knowledge because we reach a certain birthday. No one is arguing that, but physical strain is for young people. If you people in here don't believe that, I can show you instances that can prove it, that physical strain is not for people in their fifties and sixties, and I know several firemen throughout this state in their fifties who have had heart attacks; yet, they are perfectly qualified, they are very good firemen. Do you realize that a person who is a smoke eater day in and day out has more smoke in his lungs than a person would have in his entire lifetime smoking cigarettes? And all he has to do is serve 20 years fighting fires.

Heart disease is very high, and other types of diseases, and that is why on the floor of this House we saw fit several years ago to allow firemen — in the Labor Committee that bill was heard — to have special benefits under workmen's compensation, under programs that help them, and that was the reason, not because of their age but because of the conditions that they have to work under.

A gentleman in the other corner mentioned three or four, but there are five people in this category and, by the way, they have all contacted me, two were game wardens and two were in the Marine Resources Department.

I have an amendment, if you people will give me the first reading on this, to take care of those people at second reading, because as long as I am in this House, I would never support any bill that would be detrimental to elderly people. I don't have to say that, because my record will speak for that. I do have an amendment ready and I have shown it to the chairperson, the lovely lady who is the chairwoman of this committee. She knows about it, and that will take care of the problem of the five people that this bill would affect, but outside of that, it doesn't affect anyone. All it does is say to them in respect and in dignity that you, my friend, have served your people well. We are not putting anyone out to pasture. We are not saying to a person, you must retire because you are no longer wanted, like it was insinuated by my good friend from Portland. What we are saying, and they know this and don't you think they don't, they know that they no longer can do the job that they could have done. That is all we are saying; that is all the bill says.

The amendment will take care of the five employees who would be affected. The amendment would grandfather them in; it would take care of them. There is no problem with them whatsoever. They have called me on the phone, I have talked to them, I have explained it to them, and I don't remember all their names, but I did explain it to them. They told me they were going to contact their representatives. Some of them told me that they already had. I explained to them what I would do, and they were perfectly happy once they found out that the amendment would be put on.

I asked one of these game wardens, suppose it was the other way around? Suppose you were only 25? Well, he said, that is different. You see, everything is different when it pertains to something that affects you as an individual.

If I didn't know what firemen go through and if I didn't have first-hand information from several good friends of mine who are in these departments who talked to me and told me, I wouldn't support this bill because this is a department bill. But they presented their case very well at the hearing. They stated why, I took notes on it and I have about three pages of notes, as the rest of the committee did.

If this bill would be detrimental, if this bill would hurt the employees, I certainly would not support it. I sponsored it because they wanted it, and they know in their hearts what they are talking about. We can sit here and tell what is good for someone and what is not good for someone, but until we have been down that road, until we know what Mr. Theriault is talking about, we truthfully do not know and understand this bill. All this argument that certain people use in this House about discrimination and all that stuff, you know, I have heard that stuff for so long I am sick of it and I don't even listen to it anymore. But I say to you my friends, Mr. Theriault, if he thought for one minute, and you don't have to take my advice, but if Mr. Theriault thought for one minute that this wasn't a good piece of legislation for the active people in the service of the State of Maine, he would be on the other side and so would I.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I find this a very interesting discussion, and I think if you will check back, for those of you who were here in the 108th, this probably is the first time we have had a full debate on the problems of mandatory retirement. No matter what the good man from Westbrook says, that is really what we are talking about. We are talking about forcing a group of people to stop working because they are too old, and too old by what standards?

First of all, you should know that there are physical tests, mental tests, and so forth, in order to join these three departments. However, there are no tests, physical tests, mental test, etc., while they are in service.

Now, this piece of legislation, if passed, would absolutely fly in the face of a law which we just passed in the 108th. It is MRS 1006, and it states and I quote: "A public employer may establish reasonable criteria and standards of job performance to be used for the purposes of determining when employment of its employees should be terminated." Now, these standards and criteria "shall be consistent for all employees in the same or similar job classification and shall be applied fairly to all employees regardless of age." That is the law.

Right now there is only one test and that is when you enter. There is nothing to say that you are fit while you are indeed serving. I personally have spoken to Colonel Jamison. He admits that this is very important and should be done. I have spoken to him and there are tests available for men and women in the department to be tested, not at 45, not at 50, just before they might be retiring, but all the way along their whole tenure, and it should be done. They are relatively inexpensive. The people themselves can pay for some, the department for the others; it is available and should be done.

Now, I understand that the duties of a law enforcement officer are indeed strenuous. Nobody here says it is not. And they should be physically fit and they should be able to perform physically and mentally as the job demands, which is fully tested upon application but never again during the service that they are in.

They should be released if they can no longer



perform their duties as the job demands, whether it is 25 or 55. A person's color is not the determining factor, a person's sex is not the determining factor, and a person's age is not the determining factor. The determining factor, men and women of this House, is the ability to perform the job, pure and simple, and I urge you to vote "ought not to pass" on this report, upholding the principle that discrimination based on age against any person seeking employment or holding employment shall not be tolerated by the State of Maine.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: In my tender years, I learned to fly an airplane at Brunswick when the runways were still made of gravel, I have served four years as a naval aviator, and I have flown a good many miles in commercial airliners. We speak of hazardous jobs, we speak of jobs requiring split-second decisions. I would like to suggest to you that there is no more hazardous job, no job requiring split-second decisions with mental acuity than flying an airplane. Believe me, I would much rather fly with a grizzled airline pilot than a fair, beardless youth.

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

Mr. THERIAULT: Mr. Speaker and Members of the House: Not too many years ago, I believe it was in the 106th Legislature, we passed a bill that caused six state troopers to be retired against their will. One of these was mentioned by my good friend, Mr. MacEachern. This officer was in his seventies. You know why he was still in the service, because he wanted to have served as a state police officer for 50 years. Even though the law was passed, this officer was able to reach his goal of 50 years of service, the only one in Maine, and as far as we know, the only one in the nation to serve 50 years as a state trooper. How do we know that in the future someone will try to beat that record?

Members of the House, we do not intend to belittle or disparage the work of the Committee on Aging, but to our knowledge there has never been a test devised that can possibly say what any person would do under stress. True, this applies to the young as well as older persons, but everything else being equal, when it comes to continued physical endurance, the younger person will outlast the older and recover more quickly and be able to take on another adversary much sooner than his older comrade.

I guess none of us want to admit we are getting older, but nature must take its toll on all of us. Many of us believe that we can delay the aging process by keeping active mentally and physically, and there is nothing wrong with that, in fact I think it is good, but when we are on a job where our coordination and our slow reaction means life or death for someone, then we should be told "enough, its time to get out." Ladies and gentlemen of the House, this is what this bill is all about. I hope you will not vote to accept the "Ought Not to Pass" Report.

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

Mr. PAUL: Mr. Speaker and Members of the House: In my judgment, this mandatory retirement bill is a measure of discrimination in its simplest form. Merits of mandatory retirement have been debated in this legislature just a couple of years ago. At that time there was a statement issued by the legislature that we here in the State of Maine are not going to force our people to go on welfare, people that are willing to work, able to work, want to work, we are behind them.

This bill is discriminatory because it would require an individual to retire against his wishes, which to me seems fundamentally very, very bad.

I would hope that you would join in with the

rest of us in supporting the "Ought Not to Pass" Report. I believe that if we accepted this measure it would be a step backwards.

I would agree that law enforcement is a very strenuous job. Also, take state police, for example, there are many positions in these state police that don't require — say cruiser work. There are dispatcher jobs. There is one individual in my area that is in his mid forties who works out of Kittery, drives a truck, and he is in charge of weighing trucks, determining their weight. It is a very good job for somebody in their late fifties, somebody that has been with the department a number of years. Dispatcher is another good example. These people, I think, are more qualified because they have been in the system, they understand law enforcement. They sit at a desk all day long, but the responsibilities are there and it is a position that most people in their elderly years would find favorable, I think.

There has been no mention made of this bill being contrary to what the Congress of the United States said in 1978, April. The federal government passed a measure prohibiting mandatory retirement below the age of 70. They made a few exceptions. They said that persons 70 or older who were corporate executives and policy makers, entitled to pensions of \$27,000 a year or more, or organizations employing 20 or fewer people or facilities such as colleges and universities, those are the only exceptions that are allowed under federal law for mandatory retirement.

Let's get behind the defeat of this bill and send the message out there to our older people and let's get to the departments, the state police, for instance, thinking more along the line of in-service evaluation and performance and not discriminating against an individual because he is 55 years of age. Let's decide on the merits of the job and the ability of that individual to perform them.

Mr. Theriault of Rumford was granted permission to speak a third time.

Mr. THERIAULT: Mr. Speaker and Members of the House: I am glad that my friend Mr. Paul mentioned the federal law that was passed, because I had completely forgotten about that, but it was brought out in our hearing and one of the exceptions that he didn't include was that there was an exception for the FBI Agent, law enforcement people, and that their retirement would be 55 years of age.

Also, on the discrimination of other public employees because of this — isn't this discrimination continuous as far as law enforcement people are concerned? They are getting a better retirement pay with less years of service. If you want to talk about discrimination, maybe that is discrimination, too. In any case, I hope you will not accept the "ought not to pass" Report.

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

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I think a way to explain this is — if we were to have a race, a one-mile dash, and you would have 20 young people at 20 years old and 20 people at 40 and 20 at 60, who would you place your bet on? I think it would be 20.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the gentleman from Rumford this morning, Representative Theriault.

This is an exercise which we have been debating here for some time this morning, and I hear the word 'discrimination' used. I think it is an exercise where practical application of the law is very important. Everyone agrees that physical impairment of age comes upon all of us, but that is not a matter of contention. The contention is the practical way of how you are

going to handle it. It is very glibly said here that these people can be examined periodically. Well, how often are you going to examine them? Every six months? Every year? This is expensive.

The public interest agrees that the physical capability of people diminishes with age. It would seem a much more practical thing to me, when you have a physical requirement such as this, that in order to avoid the necessity for a very frequent, periodic examination of a rather sophisticated nature, that you arbitrarily put a limit on something in a job of this nature.

I was glad that it was brought out, because I was going to mention it, that the federal law, which also exists today, makes an exception for law enforcement officers. I think it is very important to recognize that the federal jurisdiction, they recognize this; here in the state, I think we should recognize it. It is a practical solution and I hope you will go along with the gentleman from Rumford.

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 and having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Nelson, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Bordeaux, Boudreau, Bowden, Brannigan, Brennerman, Brodeur, Brown, A., Brown, D., Brown, K. C., Bunker, Call, Carrier, Carroll, Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Curtis, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dudley, Dutremble, D., Dutremble, L., Elias, Fillmore, Gavett, Gillis, Gowen, Gwadosky, Hall, Hanson, Higgins, Hobbins, Howe, Hunter, Jackson, Jacques, E., Jacques, P., Jalbert, Joyce, Kany, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lowe, Lund, MacBride, Mahany, Marshall, Martin, A., Masterman, Masterton, Maxwell, McKean, McMahon, Mitchell, Nadeau, Nelson, A., Nelson, M., Nelson, N., Paradis, Paul, Payne, Pearson, Peltier, Post, Prescott, Reeves, P., Rolde, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Strout, Studley, Tierney, Tozier, Tuttle, Vincent, Vose, Wentworth, Whittemore, Wyman.

NAY—Berry, Blodgett, Brown, K. L., Carter, D., Damren, Dow, Drinkwater, Fenlason, Fowlie, Garsoe, Gould, Gray, Hickey, Huber, Hutchings, Immonen, Kane, Kiesman, Laffin, Lancaster, Lougee, MacEachern, Matthews, McHenry, McPherson, McSweeney, Michael, Morton, Peterson, Reeves, J., Rollins, Roope, Stover, Theriault, Torrey, Twitshell.

ABSENT—Aloupis, Carter, P., Cunningham, Hughes, Kelleher, Norris, Simon, Soulas, Tarbell, Violette, Wood, Mr. Speaker.

Yes, 103; No, 36; Absent, 11.

The SPEAKER: One hundred three having voted in the affirmative and thirty-six in the negative, with eleven being absent, the motion does prevail.

The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, having voted on the prevailing side, I wish to have the House reconsider and I would hope that they would all vote against me.

The SPEAKER: The gentlewoman from Portland, Mrs. Nelson, moves that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted. All

those in favor will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-110) on Bill "An Act for Per Diem Compensation for Active Retired Judges" (Emergency) (H. P. 375) (L. D. 485)

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  
SIMON of Lewiston  
JOYCE of Portland  
HOBBINS of Saco  
SILSBY of Ellsworth

Mrs. SEWALL of Newcastle  
Mr. CARRIER of Westbrook  
— of the House

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-111) on same Bill.

Report was signed by the following members:

Messrs. LAFFIN of Westbrook  
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 move that the Majority "Ought to Pass" Report be accepted.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, moves that the Majority "Ought to pass" Report be accepted.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: You do have a choice here today on these reports and let me explain the difference.

Report B provides that active retired judges, while working, will receive \$50 a day or \$25 for a half day. Retired judges presently receive three quarters of their pay, and this retirement pay that they receive they do not contribute towards during their active days. If they choose to be appointed as an active retired judge, presently they receive only their expenses.

Report A would provide \$75 a day plus expenses, plus three quarters of their salary. Personally, I believe it is in the best interest to retain their services to alleviate the heavy court dockets. I also believe that we should provide an incentive to encourage this, but I felt that this body should have a choice.

Again, Report A would provide for \$75 a day and \$40 for a half a day, in addition to their three-quarter retirement, plus expenses. Report B would provide \$50 a day plus expenses in addition to their three quarter pay. I am not going to try to sell you on Report B, the report that I signed out. I just felt that this body should have a choice, so if you defeat Report A, I am then going to move that we accept Report B.

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

Mr. HOBBINS: Mr. Speaker, Men and Women of the House: L. D. 485 is a bill that was presented to our committee by the gentleman from Sebec, Mrs. Locke. This bill was cosponsored by the gentleman from Danforth, Mr. Fenlason, and the gentleman from Newport, Mr. Reeves.

It was the feeling of 11 out of the 13 members of the Judiciary Committee that the bill that was presented by these three individuals represented a reasonable figure, in that a person who is an active retired judge is worth \$75 a day, and that was a fair compensation figure for that amount of work done by a judge. If that

particular active retired judge worked a half a day, that individual would be paid \$40. I think in the long run, providing some type of figure such as this is a reasonable one in the fact that it will alleviate a lot of the backlog in the court systems by encouraging active retired judges to sit in those areas where there is a backlog of cases.

I think we are getting a pretty good deal by having active retired judges, because if we didn't have them, there would probably be a bill before the legislature to ask for more judges, and by more judges, we are talking about more salaries and in more salaries we are also including a retirement system. As the good gentleman from Rockland, Mr. Gray, says, they don't contribute at all to the retirement system.

We felt, eleven members of the Judiciary Committee, that the three sponsors of this particular piece of legislation had a reasonable bill, and I hope you will support the eleven members of the 13-member Judiciary Committee.

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

A vote of the House was taken.

75 having voted in the affirmative and 26 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once. Committee Amendment "A" (H-110) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Divided Report

Five Members of the Committee on Judiciary on Bill "An Act to Permit the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances" (H. P. 18) (L. D. 35) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-117)

Report was signed by the following members:

Messrs. DEVOE of Penobscot  
COLLINS of Knox  
Mrs. TRAFTON of Androscoggin  
— of the Senate.

Mrs. SEWALL of Newcastle  
Mr. CARRIER of Westbrook  
— of the House.

Five Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-118)

Report was signed by the following members:

Messrs. GRAY of Rockland  
SILSBY of Ellsworth  
LAFFIN of Westbrook  
JOYCE of Portland  
STETSON of Wiscasset  
— of the House.

Two Member of the same Committee on same Bill reports in Report "C" that the same "Ought Not to Pass"

Report was signed by the following members:

Messrs. HOBBINS of Saco  
SIMON of Lewiston  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, I move that we accept Report "A".

The SPEAKER: The gentlewoman from Newcastle, Mrs. Sewall, moves that the House accept Report A.

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

Mr. GRAY: Mr. Speaker, I would request a division on that and I would like to explain the

difference between Report A and Report B.

First off, I would say that there really isn't 10 cents worth of difference between Report A and the law as it presently reads. The purpose of Report B is to eliminate the real possibility of a court adopting an unwritten policy of not releasing the names of juvenile offenders, regardless of the number of times they are adjudicated.

Report B would provide that after the second or subsequent adjudication, the court could not exclude the name — in other words, it would have to be released. Five members of the committee felt that this would serve as a warning to the first offenders. So I would hope that perhaps you would vote against Report A so we could move to accept Report B and provide a meaningful change in this present law.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: Just a few words of clarification.

Under existing law, the names of juveniles may be published or may be released for Class A, B and C crimes, but they are not able to be released for D and E crimes. In other words, there are two classes of crimes, your lesser offenses in which names are not able to be released to the press or other media.

Other than that, the two amendments both go in the same direction, except they completely change the whole philosophy of the release of names in that they turn it around and say, rather than nothing is admissible, they say everything is admissible but the court may order the exclusion. In other words, for D and E crimes, the court may order the exclusion of those names, but if the court doesn't order the exclusion of the names, then they may be released. So, the A and B Reports are pretty much in agreement on that philosophy. Where we differ is on whether the court may order the exclusion or not, and five members of the committee, including myself, felt that after a juvenile has been through the intake system, probably more than once, without ever going to court and finally gets to court and is adjudicated, that he shouldn't get another chance without being exposed to what happens to everybody else, that their name gets published in the paper. We felt, the five members of the committee that I was in agreement with, that there is a public interest in the public knowing who these juveniles are after one adjudication. We feel that they have had sufficient opportunity to have their 'bite at the apple,' if you will.

I talked with some of the law enforcement people who felt that there was adequate protection for the juveniles under the Juvenile Code, and that by the time they get into the court system for adjudications, they shouldn't get more than one chance. We felt this was a reasonable approach and it would be something that might have some appeal to the public in the days of law and order, which we have now, where people are crying "stop coddling the criminals." So, I hope you go along with Report B.

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

Mr. PEARSON: Mr. Speaker and Members of the House: I would like to pose a question through the Chair to any member of the Judiciary Committee who may care to answer.

I am not a lawyer, I am not familiar with all the technicalities and intricacies of the law. I noticed that it deals with court appearances too. Just to clear my own mind, I am rather curious as to whether this would involve the appearance of names in newspapers of children who were the victims of incestuous relationships?

The SPEAKER: The gentleman from Old Town, Mr. Pearson, has posed a question through the Chair to any member of the Judiciary Committee who may respond if they so desire.



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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I will try to respond to that. Both Committee Amendments "A" and "B" provide the court may order the exclusion of the name if the court finds the exclusion to be in the best interest of the juvenile and having regard to the nature and circumstances of the crime, and I would feel that would be ample reason, in the case of an incestuous relationship, to have the name excluded.

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: We have not yet debated the basic philosophical question of public policy behind this present law relating to whether children, juveniles, ought to be protected in some way from their own mistakes at an age when perhaps they aren't able to make a capable decision or fully realize the consequences of their act. I would sort of like to hear from some of the members of the committee on whether that public policy does, perhaps, still has some relevance.

I would ask any member of the Committee whether this bill would permit the release of names of juveniles only once they have been found guilty of an offense or whether they may be published even if they are called into court prior to having been found guilty of anything?

The SPEAKER: The gentleman from South Portland, Mr. Howe, has posed a question through the Chair to any member of the Judiciary Committee who may respond if they so desire.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The committee considered very carefully the philosophical questions that the gentleman has raised. It was felt that far from the idea of branding children who have made their first mistake or even their second or third mistake; it was the intention of this legislation, and I am going to address myself to Committee Amendment "B", it was the intent that only after a child had been through the intake system, which is generally the first step when a child comes into the criminal justice system, the juvenile court system. After he has been through an intake worker, the chances are he will not be brought before a court on his first mistake.

On his second mistake, the chances are pretty good that he will be brought before the court for adjudication. Now, I use that word adjudication, because in a juvenile proceeding there is not a finding of guilt or innocence, there is what is called an adjudication of delinquency in the event that the child is found, what we might, as adults, refer to as guilty.

Now, Amendment "B" refers to the publication of the name of a juvenile after his second adjudication, that is after two convictions or a finding of guilt, if you will, by a juvenile court. At that point, under Amendment "B", the court could not withhold that juvenile's name from public examination. But at anytime prior to such an occurrence, the court still has the discretion, still has discretion to withhold the name of the juvenile from publication at any time prior to that second adjudication.

I hope I have answered all of the questions that the gentleman has put; if not, I would ask him to repeat the part unanswered.

The SPEAKER: The Chair recognizes the gentleman from Brooklin, Mr. Bowden.

Mr. BOWDEN: Mr. Speaker and Members of the House: I, too, have a question that I would like to pose to anybody on the Judiciary Committee who would like to answer.

The SPEAKER: The gentleman may pose his question.

Mr. BOWDEN: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Silsby indicated that where Class A, B, or C crimes are con-

cerned, the present law provides that those processes be open to the public. My question is, under either Amendment "A" or Amendment "B", would this still be the case or would the court now be empowered, if it chose to do so, to order exclusion of the names of juveniles in such instances?

The SPEAKER: The gentleman from Brooklin, Mr. Bowden, has posed a question through the Chair to any member of the Judiciary Committee who may respond if they so desire.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The answer is affirmative. The court has the power to withhold the names of juveniles brought before the court for any type of crime, whether it be A through E, up to and including the second adjudication. After that second adjudication, the court has no power to withhold. That is under Amendment "B". Under Amendment "A", the court still has power to withhold the names under A, B or C crimes.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would also like to pose a question through the Chair to anyone that may care to answer.

I would like to know how many times a juvenile can now go through the intake worker; can they go through more than once?

The SPEAKER: The gentleman from Hampden, Mrs. Prescott, has posed a question through the Chair to any member of the Judiciary Committee who may care to answer.

The Chair recognizes the gentleman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, they can go through as many times as they see fit.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LAPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to any member of the Judiciary Committee who can answer. I seem to have a problem with probably misunderstanding Committee Amendment "A" and Committee Amendment "B". I see in Committee Amendment "A" it says the court may not order this exclusion after a second or subsequent adjudication or commission of a juvenile crime, and I don't seem to see it in Committee Amendment "B". I wish someone could clarify that for me.

The SPEAKER: The gentleman from Sabattus, Mr. LaPlante, has posed a question through the Chair to any member of the Judiciary Committee who may care to answer.

The Chair recognizes the gentleman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Men and Women of the House: First, I think there is a little confusion with A and B. They were printed wrong the first time around. If you will look at the numbers and get the right amendments, Committee Amendment "A" is H-117. You might have one that is marked 109 and 108, those are no longer valid. They were printed in error. So, I would direct your attention to those Committee Amendments.

In Committee Amendment "A", it changes the way court handles these sort of things. As it is now, the court may release but as a rule does not. We have just simply changed the emphasis to say they should be released unless they decide not to.

I, frankly, like Amendment "B" as much as I like Amendment "A" but I am impatient and I am a realist and I look at the report and say, if we want something, I think Report A is the one we might get anything at all.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I think this is a very

simple bill. I sat here and heard the complexity of it that I couldn't find in there. This is going to be a very important bill to each one of us. If there are bills that you must answer for when you get back home, this will be one of the bills, the juvenile. Everybody is concerned with them, everybody wants to know what is done with them, especially when they create \$40,000 to \$50,000 damage on a weekend at your summer camps.

I don't think it is a difficult bill to explain, but I want to be sure before you cast your vote that you know the direction you are going.

At the present time, the court may release the names, and it is usually predicated upon the request from a newspaper reporter. I get along with reporters, sometimes I get disturbed with the timid press. Some judges will tell you that they would have released the names of juveniles in days gone by if only the press had asked for that information. The judge does not get self-motivated in this area. That is the way the law is now. The reporter goes in and says, can I use the name, which is a rare request.

Now, Amendment "A" kind of turns this thing around and it tells you simply this — that after this D and E crime, the hearing, they listened to it and that if the judge does not say anything, they can publish the name. Well, I have heard remarks that really doesn't do much, you know, a ten cent change, but, really, it shifts the burden onto the child. It sets that burden right squarely on the child, whether the child is represented by an attorney or not. They have got to ask the judge not to release the name. I think that is a pretty big burden to switch around. That is what Amendment "A" does.

Amendment "B" was explained in detail and very clearly be our ex-pilot from Wiscasset, and he really zeroed in on it and he was right. Amendment "B" puts the burden back on the court, and that is where it should be. Let the judge, who is familiar with these cases, let him make the decisions. But the law further says, "the second time — and I won't use the word 'adjudicated' in the thing — the second time around that he has brought before the judge for the judge to decide the guilt or innocence. If the judge for a second time says the child is guilty the name then is released. The judge has no control over it, so you will find out by reading the newspapers the names of the four boys and two girls that did the \$40,000 damage to your cottage.

I urge you to defeat the motion that is up now for Amendment "A" and then we will together zero in on Amendment "B". I think we are protecting the child and it is something that when you get back home I think the people will accept.

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

Mr. CALL: Mr. Speaker and Members of the House: L. D. 35 is my bill and I urge you to defeat the motion to accept Report A so that we can go along with Report B. To accept Report A would be to defeat the purpose of this legislation.

I think it has already been said but I will repeat — in the Statement of Fact of Report B, the last sentence says this: "The amendment also provides that the court cannot exclude the name after a second or subsequent adjudication of guilt." Report A would permit the judge to go right on excluding the names, and if that happens, I might just as well not have presented my bill, which is wanted all over this state.

Again, I urge you to defeat the motion to accept Report A so, as the gentleman from Portland, Mr. Joyce, has said, we may proceed with Report B.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: This is somewhat familiar. During the first of the session we went

through pretty nearly the same ball game.

I am in complete agreement with my good friend from Wiscasset and my good friend from Portland. Every 37 minutes, a burglary occurs in this supposedly peaceful state; every 21 minutes, a larceny, and every three and a half hours, somebody swipes a car.

People complained in the past about the apparent lack of concern. Cops are cursed but they are pitifully paid, in many cases less than a town's public work's employee. A police chief, in most communities, is lucky to make half of what the school superintendent gets.

I sometimes disagree with our priorities and haven't understood our satisfaction with the cheapest brand of law enforcement that can be bought. Education is a key to any comment on crime, because there are those youngsters who are the product of combination of lazy parents, lazy educators and this is where the life of crime starts.

Publication of the names to the public is a part of our education process. Our disinterest in law enforcement, parenthood, schools, has encouraged a society that includes the minority of juvenile hoods, and this minority threatens the majority with the credo that crime does pay, because some of us prefer the tube, games or booze or whatever, anything but the kids. The young criminals that are created have no direction and they are cursed, shoved off to school but, of course, if they are spanked by their teachers, somebody sues the teacher because that is a sin. The indifference, however, stops there.

When our John, our Jane, is caught red-handed in a crime by the police, the parents then go to court. Sometimes they go to court and even lie for the kids. Paternalism then really comes to the floor. Suddenly they become interested in what John or Jane has done and they want to avoid the bad vibrations that come out of this. Bail is often arranged and quite often the offenders go free, and that is the end of it until John or Jane goes out and pulls another caper. Sometimes this one is far more serious than the one they pulled to start with. A lot of times the miscreants and the offenders come up with the idea that crime does pay.

We have a responsibility to do what we can to stem the ever increasing numbers of juvenile crimes being committed in this state and to do what we can do as a lawmaker to give all the tools necessary for our courts, our human services department and even everyday citizens to cope with the juvenile crime problems. Public identification of those juveniles who continually flaunt our laws is just one more step in the right direction, a direction that I think we should all take before our juveniles are convinced that wrong is more fashionable than right.

Let's defeat Report A, because Report A is nothing more than merely what we have now, and it is not working, we see that every day in the newspapers. Let's go on to something that I think will work, Report B.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of Mrs. Sewall of Newcastle that the House accept Report A. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

6 having voted in the affirmative and 97 in the negative, the motion did not prevail.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I have sat back all morning and listened to the debate and listened to all the questions being answered by my committee.

If you look at the report, there are only two of us who signed Report C "Ought Not to Pass." I suppose that by supporting Report C, I could look like I am trying to be the flaming liberal and for juvenile crime and for crime in gener-

al, but that is not the case.

I think many of you don't realize the background of the Juvenile Code which we have in existence at the present time. During the 107th Maine Legislature, the legislature was commissioned to establish a Juvenile Revision Commission. This commission worked for three years and presented to the 108th legislature what is known now as the Juvenile Code.

The Juvenile Code revision commission is made up of many members in the community. In fact, the membership is unique. We had one member, the former superintendent of schools of Millinocket; we had the present police chief of Gardiner on the commission; we had the present sheriff of Cumberland County on the commission; we had psychologists, psychiatrists, doctors, lawyers, we had lay people. It was a great effort by many individuals. The recommendations of that commission is existing law, unanimously endorsed at the end by the commission.

This particular bill went to the Judiciary Committee during the last session. That committee was unanimous in passing the juvenile code — unanimous, and I mean individuals who today are signing the other report. That was only five months ago, ladies and gentlemen of the House, and no one demonstrated to me one reason why we should jump and try to amend the juvenile code in a piecemeal fashion.

There is presently a bill before the legislature, which I am sponsoring, which will monitor the juvenile code. This particular bill will allow the Criminal Law Advisory Commission to do an in-depth study of the juvenile code in order to recommend any type of revisions or amendments to the juvenile code.

We have before us three particular bills, and I suppose we can all be the horrahs and go out there and tell people that we are going to release all the juvenile names. But I will explain to you what the existing law is now.

Under the existing law, A, B, and C — crimes those are indictable crimes and those are serious crimes — the judge may release the names to the public, to the newspapers. I am going to relate to you a couple of examples why I feel the present law is effective.

The first example occurred about a year and a half ago. It occurred in my sister community of Sanford, Maine. The town of Sanford had a problem. They had many individuals who were calling in bomb threats to the schools and the other municipal buildings and this occurred on many, many occasions. Well, the individuals responsible were finally caught and were finally adjudicated, and Judge Nicholas Danton, who was then and is now the Chief Judge of the Maine District Court system, released those names to the public. Unlike having the names of divorces and everything on the 14th page, like we do now in all our district court matters, that story ran on the front page, 28 cap letters, as the good gentleman from Brooklin, Mr. Bowden, will tell you are big letters. Guess what? It had an effect. Since then, there hasn't been one, not one, juvenile crime in that particular area in regard to bomb threats. You know why? Because it was a shock effect. It wasn't like reading the funnies every day and going to see who got divorced or who ended up getting caught for drunken driving so you can tell your neighbor, ha, ha, I see you got caught for drunken driving — it had an effect. I think that is what the present juvenile code does, it provides an effect for individual cases where the judge feels that society can benefit by people knowing the names of those juveniles.

I had one particular case and I cannot mention any names, but I can mention a little bit of the facts. I will tell you what will happen if this particular bill passes.

This individual kid, who was 12 years old, came home one day and all of a sudden his mother came home ten minutes later. In the living room was a huge rubber raft. The mother said, where did you get this huge

rubber raft? The kid said, my friend Johnny's uncle gave it to me. She was a little suspicious so she called the Saco Police Department. In making the phone call to the Saco Police Department, that little kid said, Mommy, I really took it from Zayre's Department Store. She said, you did, huh? I don't care, you are my son, you are still going down to the police station, you are going to tell them why you took it. Well, she took the kid down to the police station, the kid was brought into the police station and that individual was processed through the juvenile intake system because it was shoplifting, a small crime, a \$21 item. But the mother took the initiative to teach her son a lesson. No one would have known about it. She could have kept her mouth shut, returned it and no one would have known about it, but she brought that kid down and she made him go through the juvenile intake worker, see the youth aid officer, whatever.

If you are going to publicize the names of small offenders like that, for example, you are going to find a situation where many people probably won't report a crime if they know who it is, because they don't want that individual's family or that individual's kid to have their name in the paper for an individual crime of not great seriousness but a crime that does need reprimand.

I think we should wait and not go about amending the juvenile code in a piecemeal fashion. I think we should look at it, give it some time, the code has only been in effect since last July, and then come back to the legislature if we find that many provisions such as this do not work.

I know that I am probably going to be the lone ranger on my vote. I suppose that I am not taking the good word of the conservative mood, just like in the City of Saco with Proposition 13, but I suppose when you feel you have a position and a principal to expound, then that position should be expounded.

It is my feeling today that this legislature will be acting premature in releasing names for all crimes.

Mr. Speaker, I move the indefinite postponement of this bill and all accompanying papers and when the vote is taken, I would request the yeas and nays.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not vote for the indefinite postponement of this bill. I was one of the signers of Report A, and I had reservations about it. I did not have any reservations about Report B. The only thing that I was concerned about was the approach used to get Report B on. So, they chose to put it on in committee and I couldn't go along with that. As we are now, we are in a worse position than we were when we started.

On the other hand, I am not going to stand here and tell you any ratty stories either. The fact is, this boy's name would never have appeared because, as you read the bill, it very clearly states on adjudication and this boy had never been brought before the courts, so therefore this was impossible.

I submit to you that in the course of things here, some of the worst trouble that we have as far as kids ending up in juvenile court is the fact, and I lay it onto some of these intake workers. They don't know what they are doing. They have no qualifications to decide who is going to court and who is not going to court. I don't know what has happened to the judicial system here, but they do have that power. They do have the power to stop some of these juveniles from going to court.

I can only relate to you a short experience about someone I know who is a juvenile, 17 years old, and he is in Thomaston. I am glad that he is in Thomaston because he deserves more than that. I am also glad that the Auburn court released his name at that particular

time, because I want you to take notice of this fellow. He is going to be out of there in about six or eight months, and I would hate to have you see him coming into your driveway and face him at nighttime like we did.

I submit to you that there is some good in this bill. I hope you don't kill the bill, that we do go along with Committee Amendment "B". If it needs some refinement, we will get to it. This bill is needed very much. Why should we protect the criminals, whether they are young or they are old? I think this is a reasonable agreement here on Committee Amendment "B" — letting them the second time poke it right to them. I think they deserve it and I hope you vote against the indefinite postponement.

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

Mr. CALL: Mr. Speaker, Ladies and Gentlemen of the House: I am presenting this bill, L. D. 35, because I feel that should it become law it would act as a deterrent to juvenile crimes that are being committed.

I remember that before names of juveniles were not published, most juveniles were ashamed and they committed only that one offense. They lived down the stigma and became respectable adults.

At least two of the many persons who phoned me relative to L. D. 35, said that the present system of non-disclosure has become a racket.

The editorial writer of the Lewiston Daily Sun wrote the following, which appeared January 16th: "The present law is over protective; the juveniles know where they stand and take advantage of it and the public." The editorial ended by stating that the publishing of a name in such instances is part of the punishment for breaking the law in our society.

Opposition to my bill comes from people doing youth work. It is their job to oppose something like L. D. 35. The present law which prohibits the publishing of names of juveniles who have been arrested for allegedly committing a crime, they would not have been arrested unless there was strong cause for their apprehension, is a class example of "sparing the rod and spoiling the child."

An argument used against the publishing of the names of errant juveniles is that the stigma strikes also their parents, brothers and sisters. Don't the 18 year olds have brothers and sisters? Of course, they do. Isn't it possible that many times in the past, a juvenile has persuaded an 18 year old to join him in committing a crime, and let us say the juvenile has been in trouble many times. His name is not published but, unfortunately, that of the 18 year old, who never was in trouble before, is published.

It is interesting to note that Channel 13 TV had as a question on their Maine Opinion whether or not the names of juveniles in these instances should be published. The result was: Yes, 2,673; No, 238; a margin of victory of 10 to 1.

One argument from the youth workers is that publishing of names could throw a stigma over involved juveniles. An important question might be, does the word stigma carry today in our sick society the ugly head that it did 50 years ago? One person said to me that we hear often that society must be protected and that in this person's opinion the publishing of names of young miscreants must be done so that deterrent action shall result.

Many people have contacted me about L. D. 35. At least three of them feel certain that, and the courts show proof of this, in some instances, people similar to the character Fagen in Charles Dickens's immortal creation Oliver Twist, are taking advantage of today's protective law, which leaves a young miscreant's misbehavior unnoticed. The way things are today, I can believe that Fagen-type people are, in some instances, hiring juveniles to commit crimes for them. As I have already spoken, the courts can show you instances of that.

L. D. 35 must become law. Society must be protected. Please do not lose track of the thought that in many instances today's juvenile offenders are well on their way to becoming tomorrow's hardened adult criminals.

I have, in addition to that prepared statement, three exhibits, let's call them. Exhibit A is an excellent editorial from the Rockland Courier Gazette and they used the expression, "it says it all."

"A public hearing will be held Tuesday, January 30th before the Judiciary Committee of the 109th Legislature on a bill which would remove the cloak of secrecy from juvenile crime matters. First impression may well be that it sounds like a rather unimportant matter for the legislature to be considering, but we feel that it is worthy of attention, because the longer we observe the court system, the more we are convinced that fear of notoriety is about the only viable deterrent to crime.

"We cannot recall anyone ever complaining to the newspaper that a fine was too high or a jail sentence was too stiff. The only plea we have ever received is to keep someone's name out of the newspapers. When the so-called juvenile law was enacted, its sponsors sold it on the basis that a youngster was forever branded as bad if his or her name appeared in the paper because of a court appearance. It was held that protecting a youngster from public scrutiny would help in the process of teaching them to be law-abiding citizens."

"There has been no noticeable improvement in the juvenile crime situation. As a matter of fact, the amount of vandalism by juveniles is getting worse. A visit to almost any public building frequented by juveniles tells the story."

"By prohibiting the public from juvenile hearings and by preventing the publication of their names, it is almost as if there were public acceptance of such behavior."

"The juvenile code does not distinguish between the 10 year old who runs afoul of the law for the first time and the 15 year old who has been in constant trouble for five years. Just as the present law permits discretion only in serious crime matters, L. D. 35, which get heard January 30, protects only intake workers and probation officers' records from public scrutiny. If the problem of a juvenile is that he or she has no personal pride, the publicity of a court appearance will make no difference, but there might just be some chance that fear of shaming the family name might help some youngsters to think twice about the consequences of their actions."

"While there may be some criticism that the bill sponsored by Representative George Call of Lewiston is too open, the discretion of the press is the leveling. Perhaps you feel that the present juvenile law is working well, but perhaps you agree with us that there is too much protection given."

Exhibit B, this is an anonymous letter from a group of citizens in a southern Maine town. "Representative Call: Have just read your 'Name Them — Juvenile Shield May Go.'" Apparently that was a newspaper article I didn't see that had that headline. "Hats off to you. Having seen the juveniles and working in schools, exposing their name is the only effective means left. They are our future citizens and we will have to live under these parents and their children to come. Our taxpayer money is being used to protect them. In our town, cars are overturned. Our house windows broken; doors rattled at night and ice cakes thrown against clapboards. As we don't know who is punishing the public, we meet these trouble makers on the street and we nod to them. When will we, the public, be protected from the offenders? Only by letting us know who they are and protect ourselves."

"Why do we pay the salaries of these departments? Are they afraid of losing their jobs? I have seen them try to protect future criminals.

Try something else. Protect the paying citizens for a change. We need to protect ourselves from them. Keep up your work. Representative Call, don't lose out, and protect us from protective agencies that have tried and lost. Perhaps they haven't had their cars and houses shattered. That would be a quick decision to publish their names, which would be fair to all community citizens. How can we protect ourselves if we don't know their names?"

We no longer walk the streets. At least we should know whom to avoid and expose juveniles for their own good."

Now, Exhibit C is a letter from another southern Maine town, "Mr. George Call, Representative, State House, Augusta. Dear Sir, Hope that you are doing something to show what juveniles are doing since they no longer have their names or the names of their parents made public. This pampering of the juveniles has only increased the number of offenses being committed by them. They seem to have less respect for the officers of the law and all other people. Why shouldn't their parents names be published also? I always thought it was the responsibility of parents to answer for the actions of their children. When you read in the daily papers of some of the crimes of children from 12 to 17 years of age, it is difficult to believe that such atrocious crimes could be perpetrated by children. It takes courage to go against a system of permissiveness. Good luck."

Well, now no doubt there are others who want to speak on this bill. To tell you the truth, I got a note from one of my associates. It just says simply, "Please George!"

Here is another one, — "Oh, my Lord, this came to my seatmate and it is from the same person who sent, 'Please George'". It says to my seatmate, "he has assassinated his own bill. I am going to have his name released." Well, wait just a minute. Well, this one is sent to somebody, but this guy I do not include among my close friends, and I think it is only fair to say I am not referring to Representative Kelleher, this is somebody else, I won't mention his name, but this guy says, "Enough is enough". Tell George he is talking too long and hurting his cause." Well, you know what that could do, but oh I have got an excellent human interest story. If you want to hear it, I suppose you can indicate but if you don't want to hear it, I will close now. Apparently you don't want to hear it.

This is good. This is direct to me. It says, "Very fine argument, George".

Well, I guess George will call it a close by saying, please vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out to my good friend from Lewiston, Mr. Call, that if he manages to keep the debate going a little while longer, all of the juveniles will be adults and he won't need the bill anyway.

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 a desire for a roll call, a roll call was ordered.

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

Mr. HOWE: Mr. Speaker and Members of the House: I am going to support the motion of the gentleman from Saco, Mr. Hobbins. I oppose this bill. I am not a youth worker although I do get my kids up and feed them in the morning and get them to bed some nights when my wife is busy.

I do have a juvenile record. I am not going to

give you all the gory details. I didn't rape an old lady or any of that sort of thing. It is interesting that the occurrence which occasioned this record was in Sanford. My name was never published in the newspaper, although I didn't have any idea what the law was ahead of time, so I certainly wasn't thinking about it. I don't think that kids generally weigh whether their name or their parents name is going to be published before they do anything. I think most people act rather precipitously when they break the law, as I did.

We have, in this society, a concept in our law of a presumption of innocence and that one is "innocent until proven guilty." That is the concept in the law. The practice is precisely the reverse and I think Representative Call said something that sort of confirmed that when he said that nobody would be arrested unless there was strong evidence to show they had done something wrong. Yet, our law is supposed to work just opposite of that kind of presumption.

This bill would end up putting the names of virtually all juveniles in the newspaper, I am certain, because the difference between this bill and the present law is the result of an affirmative action by the judge. If the judge fails to act under present law, the name is withheld. Under this bill, if the judge fails to act, the name will be in the paper. Not only is Judge Danton exercising the provision in the present law of publishing the names of juveniles convicted of Class A, B and C offenses, so is Judge Perkins, on occasion.

The gentleman whose seat I now hold from South Portland, the former distinguished member on the committee on Judiciary, now a member of the bench, has used that provision of the law. I think the trend in the judiciary is more and more towards using that provision of the law for publishing the names of juveniles found guilty or adjudicated, if you will, or serious offenses, and making a special example in those cases.

I think Representative Hobbins is correct when he points out that if publishing the names of juveniles becomes the run of the mill situation, the effect of doing so will be greatly diluted.

I don't know what might have happened to me or where I would be today if my name had been published in the paper at the point when I was arrested, not when I was found guilty of anything. But because this society has the presumption of guilt in practice, I suspect that a stigma could very well follow anyone and does follow anyone. I think that is much more serious in the case of a juvenile who has a whole lifetime to live down something, that he or she probably didn't consider and weigh even as much as an adult might have.

I think the present law provides a reasonable balance and I might support this bill if it provided that only information be released after someone was adjudicated or found guilty but it relates to any arrests or court appearance and I don't believe that is in the best interests to the juvenile or even necessary to protect society. Therefore, I will support the present motion.

**THE SPEAKER:** The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

**MR. GWADOSKY:** Mr. Speaker, Ladies and Gentlemen of the House: I rise today to oppose the motion of indefinite postponement. I guess, as a freshman, we are often at a disadvantage since we can't go down in the Law Library and obtain a copy of last years Legislative Record and xerox our speech and come back and give it when we have our issue.

I think that we have talked about this long enough today and I think the issue is quite clear. I don't profess or pretend to have the oratory skills of several of our colleagues.

I think the bottom line is whether or not you feel that publishing their names will act as an incentive or a deterrent. I think it will. So, I would urge you to oppose the motion for indefinite postponement so we can get along and ap-

prove Report "B" and get this thing into its Second Reading.

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

**MR. JOYCE:** Mr. Speaker, Ladies and Gentlemen of the House: I am now very hungry, although I sat here patiently as the well-fed gentleman from South Portland rose to speak about this bill. We spoke the same words that he gave to us during the past hour. He was apparently not in his seat and I think I envy him for that. He got up and told us he just doesn't like the bill. He told us the way the law is now and the way we went through it, how the judge can release the names. He said, he doesn't like that apparently. Then he said that Committee Amendment "A," and he said several words on that, how he said it just turns the thing around, the judge can release it, the papers can release the name if he doesn't propose that it be kept secret. Well, we went through all that and we voted it down.

Now, I got to speak to the gentleman from South Portland that the item that we eventually want to get in here is where a juvenile is arrested. The police usually talk to him, turn him over to the parents. Now, down the road awhile, it might be a month or two months, the juvenile gets in trouble again, the police pick him up and they turn him over to the intake worker. The intake, as a rule, even in the nine months they have been in operation, they don't send most kids to court and this is good, this is the way it should be. Now, the third time a child is brought in, they might possibly go to court. The name isn't released under this Amendment "B". Now, the second time that the child has been adjudicated, then the name can be released and the judge doesn't have control over it.

So, I urge you defeat the motion before us for indefinite postponement and we will move on to the thing I think we all agree on, Amendment "B".

**THE SPEAKER:** The Chair recognizes the gentleman from Auburn, Mr. Brodeur.

**MR. BRODEUR:** Mr. Speaker, and Members of the House: I rise to support the gentleman from Saco, Mr. Hobbins, for two reasons. I think this bill, especially Report "B" would be counter-productive. What we are trying to do is to help our youth move in a positive direction and it seems some of the youths that I work with are looking for ways in which they can be recognized for some of their actions which are misdemeanors or problems which they have run into, and I think this was reward for those children, for those youths who are breaking the law. They are looking for recognition, for any kind of attention they can get, and one of the ways in which they will do that is by breaking a minor law in order to have their name put in the paper.

I think the second reason is even more important for opposing this bill, and this puts the whole power of whether a child will get recognition or not completely in his own hands. If one child would like to embarrass their parents, if they want something from their parents and they are not getting it, I think that child will be able to use the power of violating two laws, being convicted of violating those laws, and it would have an immense amount of power over what they will or will not get from their parents. For that reason, I hope you will vote to indefinitely postpone this bill.

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

The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

**MRS. POST:** Mr. Speaker, I request permission to pair my vote with Representative Simon. If he were here, he would be voting yes; I would be voting no.

## ROLL CALL

**YEA** — Bachrach, Baker, Barry, Brenerman, Brodeur, Carter, D.; Cloutier, Connolly, Davies, Doukas, Dutremble, D.; Dutremble, L.; Gowen, Hobbins, Howe, Huber, Kane, Kany, Masterton, Maxwell, Michael, Mitchell, Nelson, M.; Paradis, Reeves, P.; Rolde, Soulas, Tierney, Wentworth.

**NAY** — Aloupis, Austin, Berry, Berube, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brannigan, Brown, A.; Brown, D.; Brown, K. L.; Brown K. C.; Bunker, Call, Carrier, Carroll, Carter, F.; Chonko, Cloutier, Conary, Cox, Cunningham, Curtis, Damren, Davis, Dellert, Diamond, Drinkwater, Elias, Fenlason, Fillmore, Fowlie, Garsoe, Gavett, Gillis, Gould, Gray, Gwadosky, Hall, Hanson, Hickey, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Joyce, Kiesman, Laffin, Lancaster, LaPlante, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Matthews, McHenry, McKean, McMahon, McPherson, McSweeney, Morton, Nelson, A.; Nelson, N.; Paul, Payne, Pearson, Peltier, Peterson, Prescott, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Torrey, Tozier, Tuttle, Twitchell, Vincent, Vose, Whittemore, Wyman.

**ABSENT** — Beaulieu, Benoit, Dexter, Dow, Dudley, Hughes, Jacques, P.; Jalbert, Kelleher, Lizotte, Nadeau, Norris, Violette, Wood.

**PAIRED** — Post, Simon.

**THE SPEAKER:** Twenty-nine having voted in the affirmative and one hundred five in the negative, with fourteen being absent and two paired, the motion does not prevail.

Thereupon, Report B was accepted, and the Bill read once. Committee Amendment "B" (H-118) 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. 388) (L. D. 498) Bill "An Act Concerning the Investigation and Invalidation of Indian Tribal Elections" Committee on Election Laws reporting "Ought to Pass"

(H. P. 430) (L. D. 547) RESOLVE, Proposing an Amendment to the Constitution of Maine to Remove the Literacy Requirements for Eligibility to Vote" Committee on Election Laws reporting "Ought to Pass"

(H. P. 389) (L. D. 525) Bill "An Act Concerning Notice Provisions for Penobscot Indian Tribal Elections" Committee on Election Laws reporting "Ought to Pass"

(H. P. 548) (L. D. 679) Bill "An Act to Clarify Sex Discrimination in the Maine Human Rights Act" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-115)

(H. P. 392) (L. D. 541) Bill "An Act Concerning Fines Resulting from Fish and Game Violations on Land of the Penobscot Indians" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-114)

(H. P. 250) (L. D. 295) Bill "An Act Relating to Constables and Special Police Officers" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-113)

(H. P. 166) (L. D. 198) Bill "An Act Making Minor Revisions in the Aeronautics Law" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-120)

(H. P. 223) (L. D. 271) Bill "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" Committee on Public Utilities reporting "Ought to Pass"

No objections being noted, the above items



were ordered to appear on the Consent Calendar of March 22, under listing of Second Day.

#### Consent Calendar Second Day

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

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

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was passed to be engrossed in concurrence.

#### Passed to Be Engrossed

Bill "An Act to Provide for Art in Public Buildings and Other Facilities" (H. P. 1071) (L. D. 1224)

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

#### Second Reader

##### Tabled and Assigned

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

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

On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed and tomorrow assigned.

#### Amended Bills

Bill "An Act to Define Employer's Rights after Failure to File a Separation Report in Unemployment Compensation Cases" (H. P. 307) (L. D. 402) (C. "A" H-105)

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

#### Second Reader

##### Tabled and Assigned

Bill "An Act to Amend the Requirements for Registration of Professional Foresters" (H. P. 82) (L. D. 93) (C. "A" H-102)

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

On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed as amended and tomorrow assigned.

#### Passed to Be Enacted

An Act to Place Responsibility for Preparation and Implementation of Emergency Evacuation Plans in the Bureau of Civil Emergency Preparedness (H. P. 352) (L. D. 449)

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

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Bachrach. Mr. BACHRACH: Mr. Speaker, Men and Women of the House: I would just like you to be aware that the Senate has killed an amendment which I put on this bill to set a date for the preparation of these evacuation plans and to allow the public to have input in those plans in a public hearing. I find it regrettable that the public is not going to be allowed to participate in this and I wanted you to know about it.

The SPEAKER: The Chair will order a vote. The pending question is on passage to be enacted. All those in favor of this bill being passed to be enacted will vote yes; those opposed will vote no.

A vote of the House was taken.

105 having voted in the affirmative and 10 having voted in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Relating to Plumbing Inspectors (S. P. 153) (L. D. 369) (S. "A" S-40 to C. "A" S-36)

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.

#### Orders of the Day

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

Bill "An Act to Permit the State Auditor to Report Certain Suspected Improper Transactions to the Attorney General's Office" (H. P. 196) (L. D. 245)

— In House, Majority "Ought to Pass" as Amended by Committee Amendment "A" (H-91) Reported Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" on March 16, 1979.

— In Senate, Minority "Ought Not to Pass" Report accepted in non-concurrence on March 19, 1979.

Tabled — March 20, 1979 by Mr. Tierney of Lisbon.

Pending — Motion of Mrs. Kany of Waterville to Recede and Concur.

On motion of Mrs. Kany of Waterville, retabed pending her motion to recede and concur and tomorrow assigned.

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

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

Tabled — March 20, 1979 by Mr. LaPlante of Sabattus.

Pending — Passage to be Engrossed.

Mr. LaPlante offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-116) was read by the Clerk and adopted. The Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

On motion of Mr. Tierney of Lisbon Falls, the House reconsidered its action of yesterday whereby Bill "An Act to Clarify Home Rule Authority, "House Paper 1097, was referred to the Committee on Legal Affairs.

On further motion of the same gentleman, tabled pending reference and tomorrow assigned.

On motion of Mr. Higgins of Scarborough, the House reconsidered its action of yesterday whereby Resolution, Proposing an Amendment to the Constitution of Maine to Limit the Purposes for the Meeting of the First Regular Session of the Legislative Officers and to Provide for Senate Apportionment in 1983, House Paper 288, L. D. 348, failed of final passage.

Thereupon, Mr. Higgins of Scarborough requested a roll call vote.

Whereupon, on motion of Mr. Tierney of Lisbon Falls, tabled pending final passage and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Exempt Teacher Certification Records from the Freedom of Access Statutes" (H. P. 953) (L. D. 1186) which was tabled earlier in the day pending further consideration. (In the House, referred to the Committee on Judiciary) (In the Senate, referred to the Committee on Education in non-concurrence.)

On motion of Mr. Hobbins of Saco, retabed pending further consideration and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Split Sentencing Provisions of the Criminal Code" (H. P. 1130) which was tabled earlier in the day pending the motion to refer to the Joint Select Committee on Correctional Institutions.

On motion of Mrs. Prescott of Hampden, retabed pending the motion of Mr. Cloutier of South Portland to refer to the Committee on

Correctional Institutions and tomorrow assigned.

Mr. Garsoe of Cumberland was granted unanimous consent to address the House.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: Yesterday when the Speaker was gently chiding us for not voting on roll calls when we were in our seats, I was mentally saying "right on; that's right, everyone certainly should be voting when they are in their seats, it is a rule." Lo and behold, I was one of the offenders, so I want to rise today to apologize to the House for not having done my duty and to remind us all that we each have an obligation when you see a light that is not lit and the individual is in his seat to call it to the Chair.

I don't mind the embarrassment of being occupied at a time when I should have been casting that vote half as much as I do not having voted.

The SPEAKER: The Chair would like to call your attention to one matter that will probably cause some concern. I would like to forestall as much of that as I possibly can.

From time to time, the Chair is asked to rule on conflicts of interest, whether or not someone has a conflict or doesn't have a conflict. It is always one of those very difficult questions. Well, since we have adopted, about three years ago, the Commission on Ethics, it is their responsibility to rule on whether or not a member has a conflict or does not have a conflict. If you see a piece of legislation which is pending before this body that you know will eventually come to a vote, it is critical that you begin that process now, request an advisory opinion from the commission as to whether or not you would have a conflict if you were to vote on the pending legislation. The reason I make that position clear now is that when the time comes that I am asked whether or not some of you have a conflict, I will not rule on the question. At that point, you may be placed in a hard position but it will be too late.

There have been past rulings by the commission and those are available. I have those available to me. If you fall within those specific questions, then I have an answer for you. If you don't, I will not refrain from letting you vote unless you are singled out a piece of legislation. If you are a member of a class, the Chair is not in a position to let you not vote simply because of the fact that you are a lumberman and you happen to be affected like everyone else, or a teacher or a member of a school board, or whatever it might be. So it is critical that you make those decisions known.

I will, of course, grant you permission to be excused from voting on an individual basis if you feel you have a problem, but if I find that there are 25 people, because they happen to be members of school boards, asking permission not to vote on an issue, or if you happen to be a teacher and you don't want to vote, then I will refrain from excusing you. Therefore, I will be asking that you vote.

I do want to just lay that out a little bit at this time. We haven't gotten into any of those situations, but I can assure you it is going to come, and it usually comes by seeing the bill on your desk that morning and you want to know whether you can have an advisory opinion from the commission. The answer to that will be no. It normally takes three to four days, if they can get the commission together. I would suspect that you probably should be giving them about two weeks' notice if you want to have an opinion from that commission.

I have tried to make that issue clear, and if there is any question, please see me and I will be more than happy to continue that dialogue.

#### (Off Record Remarks)

On motion of Mr. Nelson of Roque Bluffs, adjourned until nine-thirty o'clock tomorrow morning.