

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

HOUSE

Monday, April 9, 1979

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

Prayer by the Reverend David Pillsbury of the Poland Community Church.

The members stood during the playing of the National Anthem by the Nokomis Regional High School Band of Newport.

The journal of the previous session was read and approved.

(Off Record Remarks)

On motion of Mr. Tarbell of Bangor, recessed until the sound of the gong.

After Recess

11:15 A. M.

The House was called to order by the Speaker.

Papers from the Senate
Reports of Committees
Leave to Withdraw

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Authorize County Appointment of Electrical Inspectors" (S. P. 248) (L. D. 698)

Came from the Senate with the Report read and accepted.

In the House, the Report was read and accepted in concurrence.

Ought to Pass as Amended

Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-86) on Bill "An Act to Repeal the License Requirement for Taking Certain Clams" (S. P. 166) (L. D. 373)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-86) as amended by Senate Amendment "A" (S-91) thereto.

In the House, the Report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" (S-86) was read by the Clerk. Senate Amendment "A" to Committee Amendment "A" (S-91) was read by the Clerk and adopted in concurrence. Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted in concurrence and the Bill assigned for second reading tomorrow.

Non-Concurrent Matter
Tabled and Assigned

Bill "An Act to Provide an Effective Penalty Under the Labor Laws for Violation of the Statute Requiring a Written Statement of Reason for Termination of Employment" (H. P. 176) (L. D. 210) on which Report "A" "Ought to Pass" as amended by Committee Amendment "A" (H-161) of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-161) in the House on April 4, 1979.

Came from the Senate with Report "B" "Ought to Pass" as amended by Committee Amendment "B" (H-162) of the Committee on Labor read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-162) in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Require Each Primary Candidate to be a Resident of the District from which he is Running Prior to the Primaries" (H. P. 518) (L. D. 661) on which the "Leave to Withdraw" Report of the Committee on Election Laws was Read and Accepted in the House on April 5, 1979.

Came from the Senate with the Bill and ac-

companying papers Recommitted to the Committee on Election Laws in non-concurrence.

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

Orders

On motion of Mrs. Bachrach of Brunswick, the following Joint Order: (H. P. 1295) (Cosponsor: Senator Ault of Kennebec)

WHEREAS, the dramatic expansion of government in recent years has been accompanied by the generation of vast quantities of paper; and

WHEREAS, although it is certain that the generation and longterm retention of much of this paper is unnecessary, it is equally certain that at least some of it is essential to the operation of government, for communication and records purposes; and

WHEREAS, the State currently has a very minimal records management program, conducted mainly by the State Archivist; and

WHEREAS, it is in the interest of the State to study the records management function because of the obvious opportunities to reduce paperwork, save money and improve communication; now, therefore, be it

ORDERED, the Senate concurring, subject to the Legislative Council's review and determinations hereinafter provided, that the Joint Standing Committee on State Government shall study the records management function of the State Government, the study to include at a minimum the following:

1. An analysis of current programs of records management, including those conducted under the State Archivist and in other state agencies;

2. An evaluation of the costs and benefits of a significantly expanded records management program: The program should involve, at a minimum, retention and disposition schedules for records, improvements in forms and files, and records storage and retrieval.

In addition, the program should encourage and offer assistance in the use of modern records management practices in all state agencies;

3. An analysis of the appropriate organizational location of the records management function, including: The advisability of a centralized versus decentralized function; and organizational and other arrangements which may improve service and provide opportunities for receipt of federal funds; and

4. The recommendations of the committee; and be it further

ORDERED, that the committee report its findings and recommendations together with all necessary implementing legislation in accordance with the Joint Rules to the Legislative Council no later than January 1, 1980, for submission in final form at the Second Regular Session of the 109th Legislature; and be it further

ORDERED, that the Legislative Council, before implementing this study and determining an appropriate level of funding, shall first ensure that this directive can be accomplished within the limits of available resources, that it is combined with other initiatives similar in scope to avoid duplication and that its purposes is within the best interests of the State; and be it further

ORDERED, that the Secretary of State and any other state agency or officer shall provide any assistance deemed necessary by the committee in undertaking this study; and be it further

ORDERED, upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to the agencies as notice of this directive.

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

An Expression of Legislative Sentiment (H. P. 1296) recognizing that: D. Robert Brown, of South Portland, who led the South Portland

Red Riots to the State Class A Basketball Championship, has been named coach of the year by the coaches of the Big 8 Basketball Conference

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

The Order was read.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Ladies and Gentlemen of the House: We do have the South Portland basketball team with us here today in the gallery. For that reason, I would like to take advantage of this opportunity to recognize this outstanding South Portland basketball team.

On March 20, the South Portland delegation presented a Joint Resolution officially recognizing that this South Portland team had a very spectacular basketball season. This team won the State Class A basketball championship on March 17, coached by Bob Brown, who you just heard was also coach of the year. These young men had a tremendous year. They had 27 victories and no defeats. They also scored the most points ever scored in a state championship game, 102 points.

This has been a very exciting season not only for the players and their families but also for everyone who lives in South Portland and the surrounding towns. I am sure I speak for the entire South Portland delegation when I say that we are all very proud of each young man on this team and the success they achieved this year.

We wish the best to those seniors who will be leaving for other endeavors and we look forward to another victorious basketball season for those who will be returning. We are, indeed, extremely proud of you all.

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Judy Kany of Waterville be excused April 9, April 10, April 11, and April 12, 1979 for personal reasons.

House Reports of Committees
Leave to Withdraw

Mrs. Bachrach from the Committee on State Government on Bill "An Act Relating to the Procurement of Engineer and Architectural Services by State Government Agencies" (H. P. 53) (L. D. 62) reporting "Leave to Withdraw"

Mr. Barry from the Committee on State Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Remove the Attorney General, Secretary of State and Treasurer of State as Constitutional Officers" (H. P. 847) (L. D. 1088) reporting "Leave to Withdraw"

Mr. McMahon from the Committee on Local and County Government on Bill "An Act to Provide Accounting Services for County Government" (H. P. 978) (L. D. 1219) reporting "Leave to Withdraw"

Mr. Howe from the Committee on Business Legislation on Bill "An Act to Expand the Forms of Deferred Compensation Under the Deferred Compensation Plan" (H. P. 517) (L. D. 660) reporting "Leave to Withdraw"

Mrs. Wentworth from the Committee on Local and County Government on Bill "An Act to Increase Recording Fees for the Registry of Deeds" (H. P. 348) (L. D. 447) reporting "Leave to Withdraw"

Mr. Blodgett from the Committee on Energy and Natural Resources on Bill "An Act to Forbid the use of Pesticides Containing Dioxin" (H. P. 735) (L. D. 922) reporting "Leave to Withdraw"

Mrs. Prescott from the Committee on Health

and Institutional Services on Bill "An Act Relating to Permissive Use of Drugs" (H. P. 804) (L. D. 1007) reporting "Leave to Withdraw"

Mrs. Prescott from the Committee on Health and Institutional Services on Bill "An Act Concerning Transfer of Assets for the Purpose of Qualifying for Medical Assistance" (H. P. 1088) (L. D. 1354) reporting "Leave to Withdraw"

Mrs. Prescott from the Committee on Health and Institutional Services on Bill "An Act Requiring Medicaid Recipients to Aid in the Payment of Medical Services" (H. P. 909) (L. D. 1122) reporting "Leave to Withdraw"

Mr. Churchill from the Committee on Aging, Retirement and Veterans on Bill "An Act Pertaining to Ordinary Death Benefits under the Maine State Retirement System" (H. P. 261) (L. D. 337) reporting "Leave to Withdraw"

Mrs. Nelson from the Committee on Aging, Retirement and Veterans on Bill "An Act to Provide Minimum Retirement Benefits for Alfred R. Skolfield of Corinth" (H. P. 924) (L. D. 1139) reporting "Leave to Withdraw"

Mr. Churchill from the Committee on Aging, Retirement and Veterans on Bill "An Act Pertaining to Ordinary Death Benefits under the Maine State Retirement System" (H. P. 229) (L. D. 276) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-180) on Bill "An Act to Increase the Compensation for Substitute Teachers" (H. P. 3) (L. D. 9)

Report was signed by the following members:

Mrs. GILL of Cumberland
Mr. TROTZKY of Penobscot
— of the Senate.
Messrs. DAVIS of Monmouth
FENLASON of Danforth
LEIGHTON of Harrison
Mrs. LOCKE of Sebec
LEWIS of Auburn
— of the House.

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

Report was signed by the following members:

Mr. MINKOWSKY of Androscoggin
— of the Senate.
Mrs. GOWEN of Standish
BEAULIEU of Portland
Messrs. CONNOLLY of Portland
BIRT of East Millinocket
ROLDE of York
— of the House.

Reports were read.

On motion of Mr. Connolly of Portland, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-180) was read by the Clerk.

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

Mr. CONNOLLY: Mr. Speaker, I would like to pose a parliamentary question. I would like a ruling on the germaneness of Committee Amendment "A".

The SPEAKER: In reference to the request of the gentleman from Portland, Mr. Connolly, the Chair would not that this bill, as introduced, deals with increasing the compensation for substitute teachers, and the Chair would rule that Committee Amendment "A" is not germane.

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

Mr. TARBELL: Mr. Speaker, does any part of Committee Amendment "A" relate to the title of the bill, relate to the substance of the bill?

The SPEAKER: The Chair can't tell the way in which the amendment has been drafted.

Thereupon, the Bill was 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. 472) (L. D. 590) Bill "An Act to Define the Post of Hancock County Sheriff as Full Time" Committee on Local and County Government reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-185)

(H. P. 877) (L. D. 1083) Bill "An Act to Appropriate Funds for a Conference of Families" (Emergency) Committee on Health and Institutional Services reporting "Ought to Pass"

(S. P. 159) (L. D. 334) Bill "An Act to Regulate the Number of Lobster Traps in Certain Waters of Kittery" Committee on Marine Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-87)

(S. P. 79) (L. D. 168) Bill "An Act to Ensure the Safety of Minors Participating in Trip Camping" Committee on Fisheries and Wildlife reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-85)

(H. P. 391) (L. D. 500) Bill "An Act Relating to Tending Traps in the Unorganized Territories" Committees on Fisheries and Wildlife reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-186)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 10, under listing of Second Day.

Consent Calendar

Second Day

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

(H. P. 536) (L. D. 657) Bill "An Act to Compensate for Certain Wells within Highway Rights-of-Way" (C. "A" H-177)

(H. P. 578) (L. D. 726) Bill "An Act Concerning 8-Year Semitrailer Registration" (Emergency)

(S. P. 141) (L. D. 317) Bill "An Act to Clarify Standards for Consumer Membership under the Health Facilities Information Disclosure Act" (Emergency) (C. "A" S-81)

No objections having been noted at the end of the Second Legislative Day, the House papers were passed to be engrossed and sent up for concurrence and the Senate Paper was passed to be engrossed as amended in concurrence.

(S. P. 289) (L. D. 848) Bill "An Act to Repeal Mandatory Public Meetings by the State Liquor Commission"

On the objection of Mr. Kelleher of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence, the Bill read once and assigned for second reading tomorrow.

(S. P. 288) (L. D. 851) Bill "An Act to Provide Malt and Table Wine Licenses for Ship Chandlery" (Emergency)

No objections having been noted, the Bill was passed to be engrossed in concurrence.

(S. P. 160) (L. D. 335) Bill "An Act Exempting Certain Nonconsumer, Industrial Uses of Aerosols from the Statute Prohibiting Certain Aerosols"

On the request of Mr. Jacques of Waterville, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence, the Bill read once and assigned for second reading tomorrow.

Later Today Assigned

(H. P. 601) (L. D. 748) Bill "An Act Concerning Appeals to the Superior Court" (C. "A" H-181)

On the request of Mr. Stetson of Wiscasset, was removed from the Consent Calendar.

On motion of Mr. Stetson of Wiscasset, tabled pending acceptance of the Committee Report and later today assigned.

Passed to be Engrossed

Bill "An Act Concerning the Continuation of Pilot Projects for more Effective and Efficient Delivery of Services to Preschool Handicapped Children" (Emergency) (S. P. 75) (L. D. 165)

Bill "An Act Relating to Self-insurance under the Workers' Compensation Act" (H. P. 396) (L. D. 526)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was passed to be engrossed in concurrence and the House Paper was passed to be engrossed and sent up for concurrence.

Amended Bills

Bill "An Act Relating to Weight Impaired by Tire Width of Tires on Certain Farm Trucks" (H. P. 231) (L. D. 336) (C. "A" H-178)

Bill "An Act to Prohibit an Intentional Attempt to Elude a Police Officer through High-speed Driving" (H. P. 543) (L. D. 674) (C. "A" H-182)

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

Passed to Be Enacted Emergency Measure

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 (H. P. 1119) (L. D. 1284) (C. "A" H-173)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 133 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

Passed to Be Enacted

An Act to Amend the Requirements for Registration of Professional Foresters (H. P. 82) (L. D. 93) (H. "A" H-167 to S. "A" S-65)

An Act to Amend the Membership and the Legislative Mandate of the Capitol Planning Commission (H. P. 476) (L. D. 593) (C. "A" H-147)

An Act to Clarify the Rule-making Procedure of the Commissioner of Public Safety (H. P. 549) (L. D. 680)

An Act to Provide for Art in Public Buildings and Other Facilities (H. P. 1071) (L. D. 1224) (H. "A" H-150)

An Act to Encourage Retraining of Handicapped Workers (S. P. 164) (L. D. 368) (C. "A" S-55)

An Act to Limit the Number and Location of Agency Stores under the Statutes Relating to Alcoholic Beverages (S. P. 217) (L. D. 602) (H. "B" H-151 to S. "A" S-51)

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

Finally Passed

RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Lands in the Town of Atkinson, Piscataquis County and St. John Plantation in Aroostook County and the Unorganized Territory (H. P. 1264) (L. D. 1448)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, fi-

nally passed, 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 Releasing to the City of Bangor the State's Interests in a Portion of the Bed of the Penobscot River" (H. P. 528) (L. D. 650)

Tabled—April 5, 1979 by Mr. Cox of Brewer.

Pending—Passage to be Engrossed.

On motion of Mr. Kelleher of Bangor, tabled pending passage to be engrossed and specially assigned for Wednesday, April 11.

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

"An Act to Adjust the Penalty Assessed Against Small Employers under the Employment Security Law" (H. P. 310) (L. D. 400) (C. "A" H-127)

Tabled—April 5, 1979 by Mr. Dexter of Kingfield.

Pending—Motion of Mr. McHenry of Madawaska to Indefinitely Postpone Bill and Papers (Roll Call Requested)

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I would bring your attention to this bill, and without any further to do, it is a good bill. There has been some difficulty with the wording of the committee amendment; however, the intent, regardless, is excellent, and I hope you won't support the motion to indefinitely postpone, would vote against that motion.

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 will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Madawaska, Mr. McHenry, 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 gentleman from Auburn, Mr. Brodeur.

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

ROLL CALL

YEA—Baker, Connolly, Kelleher, Laffin, McHenry, Reeves, P.; Vincent.

NAY—Aloupis, Austin, Bachrach, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brenerman, Brown, A.; Brown, D.; Brown, K. L.; Brown, K.C.; Bunker, Call, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Cox, Cunningham, Curtis, Damren, Davies, Dellert, Dexter, Diamond, Doukas, Dow, Drinkwater, Dudley, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Gavett, Gillis, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Higgins, Howe, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Joyce, Kane, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterton, Masterton, Matthews, Maxwell, McKean, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Peltier, Peterson, Post, Prescott, Reeves, J.; Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Simon, Small, Smith, Soulas, Sprowl, Stetson, Stover, Strout, Stud-

ley, Tarbell, Theriault, Tierney, Torrey, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Whittenmore, Wood, Wyman, The Speaker.

ABSENT—Davies, Garsoe, Hobbins, Huber, Jalbert, Kany, Lizotte, McMahon.

PAIRED—Brannigan; Brodeur.

Yes, 7; No, 134; Absent, 8; Paired, 2.

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

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

Bill, "An Act Concerning Certain Allocations from the General Highway Fund for the Repair of Certain Bridges in Baxter State Park" (Emergency) (H. P. 134) (L. D. 145)

— In House, Passed to be Engrossed on March 23, 1979.

— In Senate, Passed to be Engrossed as Amended by Senate Amendment "A" (S-82)

Tabled — April 6, 1979 by Mrs. Mitchell of Vassalboro.

Pending — Further Consideration.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: Friday, I made a motion to refer this bill back to committee and that was an improper motion. I would withdraw that motion.

Mr. Carroll of Limerick and myself previously talked about referring this back to committee. Because we are in non-concurrence with the Senate, it is necessary to recede to have the bill back in the possession of the House and then my following motion will be to refer to the committee.

Thereupon, on motion of Mr. Birt of East Millinocket, the House voted to recede and concur.

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

House Report — "Ought to Pass" as Amended by Committee Amendment "A" (H-179) — Committee on Health and Institutional Services on Bill, "An Act Concerning Rules and Regulations on the Licensing of Ambulances and Ambulance Personnel" (H. P. 594) (L. D. 738)

Tabled — April 6, 1979 by Mrs. Prescott of Hampden.

Pending — Acceptance of the Committee Report.

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

Committee Amendment "A" (H-179) was read by the Clerk.

Mrs. Prescott offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-191) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was assigned for second reading tomorrow.

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

House Report — "Ought to Pass" as Amended by Committee Amendment "A" (H-172) — Committee on Judiciary on Bill, "An Act Establishing Penalties for Cutting Timber Without the Owner's Permission" (H. P. 434) (L. D. 551)

Tabled — April 6, 1979 by Mr. Tierney of Lisbon.

Pending — Acceptance of the Committee Report.

Thereupon, the Report was accepted and the

Bill read once.

Committee Amendment "A" (H-172) was read by the Clerk.

On motion of Mr. Tierney of Lisbon Falls, tabled pending adoption of Committee Amendment "A" and later today assigned.

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

Bill, "An Act to Authorize Municipalities of Under 2,500 Inhabitants to Permit Persons other than Arborists to Remove Trees within Municipal Boundaries" (S. P. 219) (L. D. 761)

Tabled — April 6, 1979 by Miss Brown of Bethel

Pending — Passage to be Engrossed.

Thereupon, the Bill was passed to be engrossed in concurrence.

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

Bill, "An Act to Make the Voluntary Payment of Workers' Compensation Nonprejudicial" (H. P. 417) (L. D. 542)

Tabled — April 6, 1979 by Mrs. Mitchell of Vassalboro.

Pending — Passage to be Engrossed.

On motion of Mr. Tarbell of Bangor, tabled pending passage to be engrossed and tomorrow assigned.

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

An Act to Permit the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances (H. P. 18) (L. D. 35) (S. "A" S-67)

Tabled — April 6, 1979 by Mr. McKean of Limestone.

Pending — Passage to be Enacted.

On motion of Mr. McKean of Limestone, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Senate Amendment "A" and moved its adoption.

House Amendment "A" to Senate Amendment "A" (H-183) was read by the Clerk.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: I find myself in a rather uncomfortable position of having to oppose an amendment that philosophically I agree with. In fact, it is similar to an amendment that I offered. However, my amendment was dismissed by the other body, leaving the bill in non-concurrence. Rather than losing the entire bill, of course this body concurred — I am afraid that we are going to amend this bill to death.

I am going to ask that we defeat this amendment before us and proceed with the enactment of the bill.

Mr. Speaker, I request a division on this amendment.

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

Mr. SIMON: Mr. Speaker, I would inquire through the Chair to anyone who may care to answer, how the House Amendment before the body at this time differs from Senate Amendment "B".

The SPEAKER: The gentleman from Lewiston, Mr. Simon, has posed a question through the Chair to anyone who may care to answer. The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I haven't gone over Senate Amendment "B" and Senate Amendment "B" is not before us, only Senate Amendment "A".

There is a reason that I presented this House

Amendment. Philosophically, I came down here to do something, not just a little, to do something. We have seen in the past where all the work that we have done has still not led us down the path of trying to decrease the amount of juvenile crime in this state. The number of juveniles hasn't risen, the population hasn't risen, but what has gone up is the amount of juvenile crimes. So, I would like to take a positive step, not just a little step. I want to go back and tell the people back home, yes, we are trying to do something. Not well, we tried to address it but we did just a little. Let's do something.

The Senate Amendment, as it stands now, is nothing much more than what we already have. The judges, in some cases, and very few do release a few names, but I think we need more than that. I think we need to let the general public know, look, this individual is headed down the wrong road and it is time you know it. Maybe somebody out there can help him, maybe you can defend yourself from him, but something should be done now. I think the public should be made aware of this.

All my amendment says is this, if a juvenile is convicted, not just picked up, but convicted twice in one year period, then his name may be released to the interested parties, which is practically the same as on your Senate Amendment but also to legitimate news media. Because this way, those vandals who go around and vandalize our homes and vandalize the camps, vandalize our automobiles and even do worse damage than that, can at least be put out where people can say, you better watch that guy.

Another thing that I think it may do, it may cause a few parents to consider their actions and take a little more interest in what the juvenile is doing. When he is convicted the first time, when they know that name is going to come out the second time, maybe they will think a little harder about, maybe, I should be watching little John a little closer than I am right now. I don't want people to know what he has been doing. So, this I would consider a thinking bill. It is going to cause people to think and maybe this is a step we need to put a halt to the rising juvenile crime that we have today.

As I told my good friend from Rockland, if this goes over to the Senate and if the Senate wants to kill, what I consider a good amendment, then I will work just as hard for the Senate Amendment and the Bill in the form as it is now. But let's take a positive step, let's not halfstep as the old saying goes. Let's see if we can do something to curb this rise in juvenile crime. It is getting bigger every year.

I ask that we adopt House Amendment "A".

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I suspect we are all sort of waking up to realize we are discussing the issue of juveniles who are apprehended for crimes and whether or not their names should be published in the newspaper. I think it might be useful to just take a second to point out what the present law is in regard to this situation.

The last legislature, last year, passed a new juvenile code. That juvenile code provided a very major change in that situation. Under the juvenile code, which has only had less than a year of time in effect, the juveniles apprehended for Class A, B, and C crimes as well as murder, will have their trials conducted in public and names published and all this same kind of treatment that applies to adults. A, B, and C crimes, are still confidential and must remain so. What this bill, which we are now discussing would do, is allow the judges to, in the case of misdemeanors make public the results of those adjudications. So, that is the change from present law.

I think the general feeling of the Judiciary Committee was that that juvenile code has had very little time to prove itself and we have made a major change in that code by making

public these proceedings for all felonies and we ought to give that some time without drastically changing it.

This proposed amendment makes possible the publication of names of young people who commit misdemeanors as well as felonies. That is a move in the direction in which the sponsors wish to go but we ought to go slowly in terms of publishing the names of minors involved in minor crimes, that is misdemeanors. So, this would leave it with the judges option as to whether or not to publish those proceedings. So, that is just the situation the majority of the Judiciary Committee feels that the bill, as amended, goes as far as we ought to go in this direction.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to relate to this House an experience that I had during the last week with something that might touch on what the good gentleman from Limestone is proposing.

About two weeks ago, I forgot to lock the door to my automobile, while it was in my driveway, and during the night, it was burglarized. A few minor things were taken but the one that was important was the key to my house. A few days later, I happened to be awake one morning, about five o'clock and I heard the newspaper arrive. I went to fetch the paper and it just dawned on me that perhaps the newspaper boy might be involved in this so I looked out the window and, lo and behold, he was looking right at my car, trying to get in. So, had I been completely dressed, I would have gone out—it was rather cold so I just sat back and thought and said well, I am going to contact his boss today. I did and talked to him over the phone and he said that he had never received any notice of concern about this young man and everything was fine. Yesterday, a police officer came over to my house because I had called him also that day. He came over to my house and said, Mr. Paradis, we have apprehended this young man. He was caught in the act the other morning. One of our cruisers went over and we found burglary tools on him, so we are going to have to be charging him with something. We also went over to his home and we found about 40 8-track stereo tape decks, C. B's and a host of other little gadgets that he had. Mind you, he is only 14 years old. So, I say that for your own benefit and you make your decision, but I know how I am going to vote.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: We have spent many hours on this particular bill in the Judiciary Committee. Looking at the amendment the House Amendment "A" today, I have some serious problems with it. Getting back to the story on that newspaper boy — when that case is finally handled by the police, the boy will talk of his many escapades perhaps in this city. He will then talk to the new juvenile intake worker. The intake worker might already know that boy. After talking with him, the intake worker might well recommend that this is a case for the courts. Now, when that boy stands before the judge, it might be his first moment of truth. When the judges hears the case and, at that time, he asks the boy why, and he will find in many, many cases that for the first time, the boy has decided to lay it out there on the line. He wouldn't tell the police, he wouldn't tell the intake worker but now he will tell the judge. Perhaps he will go into that lengthy history of being a neglected and abused child. Perhaps this boy never had a chance in our society but the judge will be the only one that has gotten to the bottom of this case. Now, Senate Amendment "A" will let that judge, in his wisdom, decide that there are many problems that this boy should have to be treated, that this boy perhaps should be removed from his family but

that this boy might be a candidate for an institution. Perhaps, the judge, in his wisdom, sees that it is a simple matter to handle the case. Now, we should not take away from our judges, that right. We should trust the judge, in his wisdom, because I have found in my career many, many times, when you deal with juveniles, you don't get the whole story until he tells it to the judge. At that point, I want the judge to have all the authority that Senate Amendment "A" gives him.

If I would be in order, Mr. Speaker, I would like to move for the indefinite postponement of House Amendment "A".

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I wish I had that famous faltering voice of my good friend from Portland because I could also relate many, many stories of the victims, not just of the offender, but of the victims of the people who could ill afford having damage done to their home, to their property or even to themselves. Not too much has been said about the victim. You know, in the long run, it might do a real good service to this 15 or 16 year old or 17 year old, he is caught once and convicted and he hasn't learned his lesson. He wants to go back for more, so he does. He is caught again and he is convicted, and this could continue and continue, but if the parents know that that name could be released, if they know there is some notoriety that could be achieved and not the kind of notoriety that they are looking for, then they may take the step that is necessary to stop that third conviction, and this is what we are looking for. So, you might be doing this youngster a heck of a favor and you are going to be doing the victims a favor, so please let's not indefinitely postpone this amendment. Let's keep it alive.

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

Mr. CALL: Mr. Speaker, Ladies and Gentlemen of the House: As you know, this is my bill and I want to speak up before it is too late.

I agree with the gentleman from Portland, Mr. Joyce, that this amendment should be indefinitely postponed, because I agree with the gentleman from Rockland, Mr. Gray, that I don't want this bill killed.

I learned in my first term in this House, back in the 105th Legislature in 1971, that bills can be amended to death. People get disgusted and the bill dies.

I have been listening, and I want you good people to know that I feel, as do Representative Gray and Representative Joyce, that this amendment should be killed so that the bill doesn't get killed. I am perfectly happy with the situation as it was before, and I was surprised that Mr. McKean, who appears to be sincere and I hope that he is, I am surprised that he didn't come to me, the sponsor, first. But that isn't the reason I am against it. I have already told you why I am in favor of indefinitely postponing this amendment and I hope you vote that way.

As I have said before on the floor of this House, the greater part of the State of Maine wants us to do something. I appreciate what Mr. McKean said. He had some wonderful, pertinent remarks, but I beseech you, help Mr. Gray, Mr. Joyce and myself kill this amendment with indefinite postponement so we don't lose our bill and subsequent law.

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

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: This bill, when it was originally reported out of committee, did do something. When Senate Amendment "A" was tacked onto it, it more or less reiterated the existing state law so, in effect, the bill doesn't do anything.

When this bill originally came out of committee, there was an overwhelming vote of support

for it. There were quite a few people that spoke against it and they all voted for it, a total of 29. It seems strange to me that none of the 29 seemed to get themselves involved with Senate Amendment "A", because they realized what Senate Amendment "A" does. It takes out the middle of the bill, reiterates the state law which they are completely happy with at the present time.

House Amendment "A" would put something back into the bill to make it meaningful so that we can do something in this direction.

Juvenile delinquents have changed a lot in the last 40 or 50 years because they are smarter, they are better educated and they are more aware of what is going on and how to get around the law and how to use the law. This is a fact of life today. The juveniles know what they are doing, they know how far they can go and what they can get away with.

I would hope that you would go against the indefinite postponement of House Amendment "A" and go along with the passage on a future vote.

Mr. Joyce of Portland requested a roll call.

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

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

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

Mr. SIMON: Mr. Speaker, Ladies and Gentlemen of the House: We would all like to vote in favor of victims and against criminals. We can make generalizations about juvenile delinquents, some of them will be correct and some of them won't be so correct.

In a criminal law situation such as we are debating, we are all tempted from time to time to hit back and, indeed, vengeance is one of the routes of the criminal law. But whether we are dealing with adults or with juveniles, consistency is also an important asset in the criminal law.

When this matter was debated on an earlier occasion, my colleague, Representative Hobbins, our House chairman, pointed out that the juvenile code has only been in place for five months. When we originally considered Representative Call's bill, not a single member of the Judiciary Committee voted it out "Ought to Pass." We have debated the measure, we have compromised, we have come to something that we can live with. Members may correct me if I am wrong, but I believe that every member of the Judiciary Committee who has spoken on this matter has spoken in support of the bill in its condition prior to 20 minutes ago and against the present proposed House Amendment.

The proposed bill, in its condition prior to the proposal of House Amendment "A" to Senate Amendment "A", is something that makes a marginal change in the law, it gives the judges the discretion they should have, it accomplishes the legitimate purposes that caused Mr. Call, the member from Lewiston, to present the bill, and I hope you will go along with Representative Joyce's motion to indefinitely postpone so that we can enact the bill as it has been shaped by the full legislative process.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mr. Joyce, that House Amendment "A" to Senate Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Bachrach, Baker, Beaulieu, Benoit, Berry, Berube, Birt, Bordeaux, Boudreau, Brenerman, Brodeur, Brown, D.; Brown, K. L.; Bunker, Call, Carter, F.; Chonko, Cloutier, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Davis, Dellert,

Dexter, Diamond, Doukas, Drinkwater, Dutremble, D.; Elias, Fenlason, Gould, Gowen, Gray, Gwadosky, Hall, Higgins, Howe, Huber, Hughes, Jacques, P.; Jalbert, Joyce, Kane, Locke, Lowe, Lund, MacBride, Mahany, Marshall, Masterton, Matthews, McPherson, McSweeney, Michael, Mitchell, Nadeau, Norris, Payne, Pearson, Peltier, Rolde, Silsby, Simon, Small, Smith, Soulas, Stetson, Stover, Tarbell, Tierney, Torrey, Tozier, Tuttle, Whittemore, Wood, Wyman.

NAY—Austin, Barry, Blodgett, Bowden, Brown, A.; Brown, K. C.; Carrier, Carroll, Carter, D.; Churchill, Conary, Dow, Dudley, Dutremble, L.; Fillmore, Fowlie, Gavett, Gillis, Hanson, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Kelleher, Kiesman, Laffin, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lougee, MacEachern, Martin, A.; Masterman, Maxwell, McHenry, McKean, Morton, Nelson, A.; Nelson, M.; Nelson, N.; Paradis, Paul, Peterson, Post, Prescott, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Sprowl, Strout, Studley, Theriault, Twitchell, Vincent, Violette, Vose, Wentworth.

ABSENT—Brannigan, Garsoe, Hickey, Hobbins, Kany, Lizotte, McMahon, Reeves, P.

Yes, 80; No, 62; Absent, 8.

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

Thereupon, Senate Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by Senate Amendment "A".

The Bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

The Chair laid before the House the following matter:

Bill "An Act Concerning Appeals to the Superior Court" (H. P. 601) (L. D. 748) (C. "A" H-181) which was tabled earlier in the day and later today assigned pending acceptance of the Committee Report.

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

Committee Amendment "A" (H-181) was read.

Mr. Stetson of Wiscasset offered House Amendment "A" to Committee Amendment "B" and moved its adoption.

House Amendment "A" to Committee Amendment (H-193) was read by the Clerk.

On motion of Mr. Carrier of Westbrook, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act Establishing Penalties for Cutting Timber Without the Owner's Permission" (H. P. 434) (L. D. 551) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A".

Mr. Churchill of Orland offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-192) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading tomorrow.

HOUSE REPORT—"Leave to Withdraw" — Committee on Transportation on BILL, "An Act to Exempt School Buses from Tolls on the Maine Turnpike" (H. P. 550) (L. D. 681) — in House, "Leave to Withdraw" Report Read and Accepted on April 6, 1979.

Held at the request of Mr. LaPlante of Sabattus.

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

Mr. LaPLANTE: Mr. Speaker, Ladies and

Gentlemen of the House: I just wanted to give a few words of information on the bill that I am withdrawing. I thought it would be nice, after the many years that the Maine Turnpike has been in existence, that at some point the school buses on school activities would be able to travel free of charge, so I decided this year that I would put in a bill to attempt this. Unfortunately, the contract between the Maine Turnpike Authority and the National Bank of Boston prevents this from happening.

What the bill did do, as of approximately 1981, I believe January of 1981, the Maine Turnpike Authority will become part of the Department of Transportation and Mr. Mallar, the Commissioner of the Department of Transportation has agreed that the Committee, when they write their new standards, they may exempt school buses from tolls on the turnpike as of January 1, 1981, and I thought maybe that we would save a little money that way.

(Off Record Remarks)

On motion of Mr. Michael of Auburn, adjourned until nine-thirty tomorrow morning.