

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Wednesday, February 11, 1981

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

Prayer by Reverend William Kennison, Episcopal Church of St. John the Baptist, Thomaston.

The journal of yesterday was read and approved.

**Papers from the Senate
Later Today Assigned**

Bill, "An Act to Exempt Residents' Personal needs Money from Bankruptcy Proceedings" (S. P. 246) (L. D. 716)

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

In the House: On motion of Mr. Brannigan of Portland, tabled pending reference in concurrence and later today assigned.

Bill, "An Act to Amend the Maine Certificate of Need Act of 1978" (S. P. 248) (L. D. 718)

Bill "An Act to Encourage Peer Review Activities in Health Care by Protecting Individuals Participating in Peer Review and by Protecting the Records of Peer Review Organizations" (S. P. 249) (L. D. 719)

Came 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 Relating to Punitive Damages in Wrongful Death Actions" (S. P. 250) (L. D. 717)

Bill, "An Act to Ensure the Admissibility of Results of Self-contained, Breath-alcohol Testing Apparatuses" (Emergency) (S. P. 251) (L. D. 720)

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

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

Bill, "An Act Relating to Employer Contribution to the Unemployment Compensation Fund" (S. P. 252) (L. D. 721)

Bill, "An Act to Further Exempt Certain Benevolent Organizations from the Employment Security Law" (S. P. 253) (L. D. 722)

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

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

Bill, "An Act to Revise the Charter of the Richmond Utilities District" (S. P. 254) (L. D. 723)

Bill, "An Act to Clarify the Law Concerning the Measurement of the One-year Period Following a Public Utility's Filing for a Rate Increase" (S. P. 255) (L. D. 724)

From the Senate referred to the Committee on Public Utilities in concurrence.

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

Non-Concurrent Matters

Bill, "An Act Concerning the Collection of Personal Property Tax on Objects which Require a Permit Prior to their Being Moved" (H. P. 583) (L. D. 663) which was referred to the Committee on Transportation in the House on February 4.

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

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

Non-Concurrent Matter

RESOLVE, Designating the Scenic Overlook on Interstate 95 in T1-R6 WELS as "The Albert J. 'Allie' Cole Memorial Scenic Overlook" (S.

P. 82) (L. D. 179) which was passed to be engrossed as amended by House Amendment "A" (H-6) in the House on February 6.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-6) as amended by Senate Amendment "A" (S-12) thereto in non-concurrence.

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

Messages and Documents

The following Communication: (S. P. 273)

STATE OF MAINE

Senate Chamber

President's Office

Augusta, Maine 04333

February 9, 1981

Honorable Howard M. Trotzky

Honorable Laurence E. Connolly, Jr.

Chairmen, Joint Standing

Committee on Education

State House

Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Marshall Cohen of Harrison for appointment to the State Board of Education.

Pursuant to Title 20 MRSA Section 51, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,

S/JOSEPH SEWALL

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

Came from the Senate read and referred to the Committee on Education.

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

Petitions, Bills and Resolves

Requiring Reference

The following Bills and Resolves were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Business Legislation

Bill, "An Act to Prohibit Contractual Allowance in Health Insurance" (H. P. 679) (Presented by Mr. Conary of Oakland)

(Ordered Printed)

Sent up for concurrence.

Education

Bill, "An Act to Establish a Maine Energy Efficient School Year Schedule" (H. P. 680) (Presented by Mr. Cunningham of New Gloucester)

(Ordered Printed)

Sent up for concurrence.

Fisheries and Wildlife

Bill, "An Act to Create a Nonresident Property Owner Fishing License" (H. P. 681) (Presented by Mrs. Locke of Sebec)

(Ordered Printed)

Sent up for concurrence.

Health and Institutional Services

Bill, "An Act Relating to Jail Administration" (H. P. 682) (Presented by Mrs. Prescott of Hampden)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill, "An Act Relating to Sums Due for Rent and Claims for Damages" (H. P. 683) (Presented by Mrs. Holloway of Edgecomb)

(Ordered Printed)

Sent up for concurrence.

Passed to be Engrossed

RESOLVE, Concerning the Authority of the Attorney General to Seek Adjudication of the Nature and Scope of Cutting Rights Claimed by Private Parties on Public Lots of the State of

Maine" (Emergency) (H. P. 697) (Presented by Mr. Hobbins of Saco) (Cosponsor: Senator Collins of Knox) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Under suspension of the rules, and without reference to any Committee, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Labor

Bill, "An Act to Improve the Evaluation of Hearing Loss under the Workers' Compensation Statute" (H. P. 684) (Presented by Mr. Michaud of East Millinocket) (Cosponsor: Mr. Hayden of Portland)

Bill, "An Act to Amend the Workers' Compensation Law" (H. P. 685) (Presented by Mr. Conary of Oakland)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill, "An Act to Remove the 10-mile Radius Restriction on Location of Agency Stores under the Liquor Laws" (H. P. 686) (Presented by Mr. Conary of Oakland) (Cosponsors: Mr. Michael of Auburn and Mr. Nadeau of Lewiston)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill, "An Act to Revise the State Personnel System" (H. P. 687) (Presented by Mrs. Kany of Waterville) (Cosponsor: Mr. Paradis of Augusta)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill, "An Act Relating to the State Valuation of the Town of Easton" (H. P. 688) (Presented by Mr. Mahany of Easton) (Cosponsor: Senator Carpenter of Aroostook)

Bill, "An Act to Equalize Tax Treatment of Health Insurers" (H. P. 689) (Presented by Mr. Conary of Oakland)

Bill, "An Act to Prorate the Excise Tax on Automobiles and Other Vehicles" (H. P. 690) (Presented by Mrs. Hutchings of Lincolnville) (Cosponsors: Mrs. Wentworth of Wells, and Mr. Masterman of Milo)

Bill, "An Act to Repeal the Sales Tax on Fuel Oil and to Enact in its Place an Excise Tax on Fuel Consumed in Industrial and Manufacturing Establishments" (H. P. 691) (Presented by Mr. Kelleher of Bangor) (Cosponsors: Mr. Masterman of Milo and Miss Brown of Bethel)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill, "An Act to Eliminate the Obsolete Requirement for Red Flags During Daylight Hours for Motor Trucks and Truck Tractors" (H. P. 692) (Presented by Mr. Conary of Oakland)

Bill, "An Act to Establish a Transit License Plate for Movement of Special Off-road Vehicles and Equipment Weighing over 6,000 Pounds" (H. P. 693) (Presented by Mr. Theriault of Fort Kent) (Cosponsor: Mrs. Martin of Van Buren)

Bill, "An Act to Amend Certain Motor Vehicle Laws" (H. P. 694) (Presented by Mr. Carroll of Limerick)

RESOLVE, Designating the Picnic Area on State Route 23 in Dexter as the Harold Keyte Memorial Picnic Area" (H. P. 695) (Presented by Mr. Sherburne of Dexter) (Cosponsors: Mr. Mahany of Easton, Mr. Martin of Eagle Lake and Senator Emerson of Penobscot)

(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Mr. McSweeney of Old Orchard Beach, it was

ORDERED, that Representative George L. Boyce of Auburn be excused February 12 and 13 for personal reasons.

Special Sentiment Calendar

In accordance with House Rule 56, the following items (Expressions of Legislative Sentiment)

Recognizing:

The Town of Jonesport which is preparing to celebrate its sesquicentennial in 1982; (H. P. 696) by Mr. Randall of East Machias. (Cosponsor: Senator Brown of Washington)

There being no objections, the above item was considered passed and sent up for concurrence.

House Reports of Committees Leave to Withdraw

Mr. Higgins from the Committee on Taxation on Bill "An Act to Permit Federal Income Tax Payments to be Deducted under the State Income Tax Law" (H. P. 255) (L. D. 295) reporting "Leave to Withdraw"

Miss Brown from the Committee on Taxation on Bill "An Act to Enable Taxpayers to Donate a Portion of their State Income Tax Refund to Nongame Management Projects through a Tax Return Checkoff" (H. P. 240) (L. D. 275) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Ought to Pass Amended Bill

Mr. Cox from the Committee on Legal Affairs on Bill "An Act to Increase the Licensing Fee for Games of Chance" (H. P. 184) (L. D. 199) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-15)

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

Committee Amendment "A" read and adopted and the Bill assigned for second reading, tomorrow.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought not to Pass" on RESOLVE, Authorizing Arthur G. Powers to Sue the State of Maine (H. P. 250) (L. D. 290)

Report was signed by the following members:

Senators:
SHUTE of Waldo
CHARETTE of Androscoggin
VIOLETTE of Aroostook
— of the Senate.

Representatives:
McSWEENEY of Old Orchard Beach
PERRY of Mexico
STOVER of West Bath
SWAZEY of Bucksport
STUDLEY of Berwick
TREADWELL of Veazie
GWADOSKEY of Fairfield
SOULAS of Bangor
COX of Brewer

— of the House.

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

Report was signed by the following member:
Representative:

DUDLEY of Enfield

— of the House.

Reports were read.

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

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

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Members of the House: I signed the Minority Report intention-

ally so this House could take a close look at this type of legislation. In my tenure here, many times we have given people permission to sue the state of Maine as their last course of action and not many of them ever got anything from the State of Maine, except they cleared their conscience. They knew they went to the bitter end with their case.

This case has been before this Legislature more than twice, three or four times probably. I voted against it once or twice myself like the members of this committee did. But this man is determined to show people what exists in the state of Maine. It is wrong and I don't want it to exist in my neighborhood and I am sure you don't want it to exist in yours.

Briefly, what the case involves — the man was at work, as I understand it, I think it was in Bath, Maine, and these officers came and broke into his cellar that night, three of them, and they couldn't get anything done about it. The court wouldn't hear the case. He spent a lot of money in law fees and still it was swept under the rug.

No, your domicile and mine is something that is important, at least it is to me. His wife was petrified, she didn't know they were officers and even if they were, they didn't have the proper warrant to be breaking into their house after midnight. I don't like this thing to exist in the state of Maine. I wouldn't want it to exist in my neighborhood. I would spend a lot of money to see that it didn't exist in my neighborhood again.

So this is basically what is involved. Do you want this type of thing going on in the state of Maine? If you do, it is all right by me, but I don't think this should exist. I think this man should be allowed a chance to sue the state of Maine. I don't think he would ever get anything and I think there is more than one man involved. It is the principle that is involved, not the case, not the dollars and cents but it is the precedent of not being properly heard in a proper court of law.

If you read the paper recently, our Chief Justice Warren Berger had something to say on this very subject of what is going on. I think the day has come when we have got to watch out for the citizens of Maine so this won't happen over and over again. The only way to do it is to show them that they do have a recourse, that they can go to the Legislature and get permission to sue for something of this nature.

I just wanted you to know what the case was. I hope you take a good look at it, and I would like to see the man have a chance to sue the state of Maine. If he wins, so be it. If the judges and lawyers think that he is entitled to something, he should have it; if he loses, so what, we haven't lost anything. But this man has proved a point, that you shouldn't be breaking into people's homes in the middle of the night, rummaging and scaring a man's wife to death, and so forth, without being able to have your case heard in court.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I presented this bill by request and had no personal knowledge of the bill until I went to the committee hearing. This bill is a perennial bill, it has been here many times and I had very little interest in it. But after listening to the discussion, I am sure if we had lobbied for it, some of the people would have changed their minds on the committee.

I think the important thing to remember here is that this gentleman has brought this to the people of the state at least three times. It is not a problem for a person like you or I. We never have any problems presenting our cases or going to find a lawyer or to go to court and we can pay for it, but the average working man is not able to do it. He is not familiar with the cause, he is turned down, he is questioned, he doesn't know exactly how to do these things. So

I think it is perfectly right for him to present a bill like this and I think it is right for you to allow him to sue the state. He is not going to get one penny from this if he is wrong. As a matter of fact, it is probably going to cost him probably \$20,000 to enter into this suit. I question whether he might even do it. But the important thing is, he has a principle, and that principle is that the people of the state of Maine will allow justice to go through, and the only way he can receive justice is for you people to allow him to bring suit against the state.

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

Mr. COX: Mr. Speaker, and Members of the House: I would like to give some of the reasons why the majority of the committee reported "ought not to pass".

In the first place, this is an incident which occurred approximately 12 years ago. The gentleman concerned had the property which was removed from his premises returned to him, and as I recall his testimony, one of the State Troopers involved resigned, another one was transferred out of the area, and I am not sure, but I think a third one may still be on the force.

This legislature and the Judiciary Committee has heard this bill once, reported it "ought not to pass;" the Legal Affairs Committee has had it at least twice before and reported it "ought not to pass." No new information was presented at the hearing which would convince the majority of the committee that there was any reason for a different report. There was a constitutional problem in that under the Tort Claims Act people do not have the right to sue the state and we would be giving this one man permission to do something which no one else could do. And in a Supreme Court decision on this, in order for the Supreme Court to even consider all this as being constitutional, the conditions would have to be very unusual.

Also, the point is made that this is the gentleman's last chance to get action. Well, as near as the majority of the committee felt, this was not quite his last chance; he had not pursued all of the areas or avenues open to him under the statutes. He had not appealed the decision of a court not to hear the case, he had not pursued his suit against the officers involved. His reasons were, he said, that the lawyers made deals and so forth, but the fact remains that he has not exhausted, as far as we can tell, all of his opportunities under the statutes, and we just did not feel that he should be granted this permission to sue the state of Maine when he has not exhausted all of the possibilities that are available to him under the statutes.

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

Mr. SOULAS: Mr. Speaker, Men and Women of the House: I rise in support of the Majority Report "Ought Not to Pass".

The only argument you have heard in favor of passing this L. D. is to allow Mr. Powers the opportunity to go to court to sue the State of Maine so that he might have his day in court. Mr. Powers, over the past years, has had his day in court. He filed a claim against the State Police, he had a trial in our Maine courts. He was represented by counsel and a jury, and they returned a verdict against him. This verdict was appealed and another trial took place, and once again the decision went against him.

He then decided to continue his efforts by going the legislative route. A bill was filed in the 108th Legislature and the 109th Legislature, and each time he was denied the opportunity to pursue his case any further. We are now faced with the same circumstances—nothing has changed that will change my mind, no new evidence, just the same old adage—I want to have my day in court. I personally feel he has had more than his day in court. I cannot see us spending additional taxpayers' dollars to continue a route I personally feel will accomplish absolutely nothing.

The only argument is that I have heard this bill so many times I just want to get it out of my hair once and for all. If this is allowed to happen, I will assure you, you can expect tons of old bills to surface and expect the same treatment. Are we as legislators going to be swayed just because a bill has been presented too many times? Of course not. We have a responsibility to be firm and also be fair. In this case, I am sure we have been both. It is time, yes, once again, vote against an old L. D. I hope you will support the Majority Report and vote "ought not to pass."

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I am not concerned how many times this has been before this House. I confess, I am the first one to confess that I also voted against it because I thought there was other recourse, but there is no other recourse unless you are a millionaire, and I think this becomes an issue. I think that it is wrong. I am saying there are poor people who can't afford \$20,000 or \$30,000 to bring something like this to a settlement. I think more than Mr. Powers is involved. I don't know the man, I have only seen him before the committee a few times. It is the same old thing—in my opinion, justice hasn't been applied. Years don't make any difference to me. They go by so fast that I don't realize that 15 years or so have gone by while he has been trying to do something about this case.

I think the man is persistent enough to point out an injustice in this state so he needs a little help, and I don't believe it would cost the state a million, that kind of money. First of all, if he is not right, it won't cost them anything; if he is right, he should be paid, really. That is the way I feel about it.

I don't mind hearing the case more than once, I wouldn't mind hearing it again.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, I would like to request 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. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Brewer, Mr. Cox, 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 — Aloupis, Baker, Beaulieu, Benoit, Berube, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Curtis, Damren, Davies, Davis, Day, Diamond, G. W.; Diamond, J. N.; Drinkwater, Erwin, Fitzgerald, Fowle, Gavett, Gwadosky, Hanson, Hayden, Hickey, Higgins, Hobbins, Holloway, Huber, Hunter, Ingraham, Jacques, Jordan, Joyce, Kany, Kiesman, Kilcoyne, Lancaster, LaPlante, Laverriere, Leighton, Lisnik, Lund, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; Masterman, Masterton, Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michaud, Mitchell, E. H.; Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Perry, Post, Pouliot, Prescott, Racine, Randall, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Small, Smith, C.B.; Soulas, Soule, Stevenson, Stover, Studley, Swazey, Tarbell, Telow, Theriault, Thompson, Treadwell, Tuttle, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth.

NAY — Armstrong, Bell, Boisvert, Callahan, Carrier, Carter, Conary, Connors, Dexter, Dillenback, Dudley, Foster, Gillis, Gowen, Hall, Higgins, L. M.; Hutchings, Jackson, Jalbert, Kane, Kelleher, Lewis, Livesay, Locke, McPherson, Mitchell, J.; Peterson, Salsbury, Sherburne, Smith, C. W.; Strout.

ABSENT — Austin, Ketover, Michael.

Yes, 116; No, 31; Absent 3.

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

Sent up for concurrence.

Consent Calendar

First Day

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

(H. P. 19) (L. D. 25) Bill "An Act to Provide Relocation Assistance to Certain Persons Ineligible for Federal Benefits" — Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-14)

(H. P. 234) (L. D. 249) Bill "An Act to Repeal Provisions for Premiums and Rebates under the Liquor Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-13)

No objections being noted, the above items were ordered to appear on the Consent Calendar of February 12, under listing of Second Day.

(S. P. 111) (L. D. 240) Bill "An Act to Permit Auctioneers to Conduct Auctions for Charitable Organizations without Posting an Additional Bond under the Charitable Solicitations Act" Committee on Business Legislation reporting "Ought to Pass"

On the objection of Mr. Gwadosky of Fairfield, was removed from the Consent Calendar.

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

(H. P. 10) (L. D. 5) Bill "An Act to Amend the Annual Timber Cut Report Requirement to Include Fuelwood under the Annual Timber Cut Report" — Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-16)

No objections being noted, the above item was ordered to appear on the Consent Calendar of February 12, 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:

(S. P. 71) (L. D. 108) Bill "An Act Concerning the Assignment of Rights of Recovery" (C. "A" S-9)

(H. P. 81) (L. D. 120) Bill "An Act Relating to Appeals by Taxpayers from Municipal Assessment" (C. "A" H-12)

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

Second Reader

Tabled and Assigned

Bill "An Act to Exempt Certain Aquaculture Workers under the Workers' Compensation Law" (S. P. 74) (L. D. 111)

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

On motion of Mrs. Beaulieu of Portland, tabled pending passage to be engrossed in non-concurrence and tomorrow assigned.

Orders of the Day

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

Bill "An Act to Dissolve the Wells-Ogunquit Community School District" (Emergency) (H. P. 651)

(Committee on Education suggested)

Tabled—February 10, 1981 by Mr. Connolly of Portland.

Pending—Reference

The SPEAKER: The Chair recognizes the gentlewoman from Wells, Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I guess you all know I had intended to move indefinite postponement of this bill. After much consideration and much lobbying, I will admit, I will not make this motion, but I would like to say that the reason I wanted to indefinitely postpone this bill was because although I believe all bills should be heard, this bill has no place here. It was mandated by the legislature and now an agreement has been broken.

Thereupon, the Bill was referred to the Committee on Education, ordered printed and sent up for concurrence.

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

Bill "An Act to Provide for State Coordination of Referendums Concerning School Construction Projects" (H. P. 652)

(Committee on Education suggested)

Tabled—February 10, 1981 by Mr. Connolly of Portland.

Pending—Reference

On motion of Mr. Connolly of Portland, retabled pending reference and tomorrow assigned.

Held Bill

Bill "An Act Concerning Appointments to the Maine Veterans Home Board of Trustees" (S. P. 73) (L. D. 110)

—In Senate, Passed to be Engrossed as Amended by Committee Amendment "A" (S-8) on February 6, 1981

—In House, Recommended to the Committee on Aging, Retirement and Veterans on February 10, 1981

HELD at the request of Mr. Conary of Oakland.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Conary.

Mr. CONARY: Mr. Speaker, I move that the House reconsider its action whereby this Bill was recommitted to the Committee on Aging, Retirement and Veterans.

I would request 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 gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I will ask you out of simple courtesy to allow this bill to come back to committee where we can deal with new and different information so we can bring this back to you in a stronger, clearer, more understandable posture as far as our committee is concerned. On the basis of good government and courtesy, I ask you to allow us to have this back in our committee to work on.

So, I hope you will vote no on the motion before us.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I guess I don't necessarily have any problems with extending a courtesy to a committee, but I have looked the bill over and it looks pretty concise to me. I am not sure,

perhaps if the gentlelady from Portland could share with the House what new information is required — as I say, the bill does look pretty concise in the sense that all we are saying here is that the trustees representing a leading veterans organization shall be appointed by a list of three candidates submitted by the organization which that trustee is to represent. I don't think it could be much stronger or could be better defined or more concise than that, and if there are amendments that need to be drafted, then why don't we just table the bill, if that is what we want to do.

If there is new information, we can put an amendment on it in this body or the other body. I don't see any reason to send a bill that is as simple as this back to committee. If there is somebody that has changed their mind about whether or not they want to support the bill, then they can vote against the bill on enactment. I really don't see anything particularly wrong with this piece of legislation as it is right now.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Members of the House: This is a simple bill, which are indeed usually the most complicated. I think it is really inappropriate for us to debate the merits and the substance of this bill. We simply have a request of the Committee on Aging, Veterans and Retirement to return this bill to committee so they can do their homework and do their job right. I think the House should remember that we have done this several times already this session. We have re-referred bills to the Committee on Labor, to Business Legislation and to several other committees because it is our responsibility as legislators to do the work right. I think you should remember that your committee also may at some time want a bill back that you have not done as carefully as you would like to do on, and out of simple courtesy, as a matter of precedence, we can send this bill back to committee, let the committee deal with it as they should.

I would ask you to vote no against the motion to reconsider.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I guess the only point I would make, perhaps in conflict with the gentlelady from Vassalboro, is simply this, that in the past, whenever we have asked to recommit a bill to committee, there has been a particular reason for it. As far as I know today, I have not heard any particular reason other than a courtesy of why this bill should go back to committee. If there is something drastically wrong with it, then let's find out what it is right here and now and then we will all vote to send it back to committee. I don't see anything wrong with it; it looks like a perfect bill to me.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Oakland, Mr. Conary, that the House reconsider its action whereby this Bill was recommitted to the Committee on Aging, Retirement and Veterans. Those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Bell, Bordeaux, Boyce, Brown, D.; Brown, K.L.; Cahill, Carrier, Conary, Conners, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Gavett, Gillis, Gowen, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, McSweeney, Michael, Murphy, Nelson, A.; O'Rourke, Paradis E.; Perkins, Peterson, Randall, Reeves, J.; Salisbury, Small, Smith, C.W.; Soulas, Stevenson, Stover, Studley, Tarbell, Telow, Walker, Weymouth.

NAY — Armstrong, Baker, Beaulieu, Benoit,

Berube, Boisvert, Brannigan, Brenerman, Brodeur, Brown, A.; Callahan, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gwadosky, Hall, Hayden, Hickey, Higgins, Hobbins, Ingraham, Jalbert, Joyce, Kane, Kany, Kelleher, Kilcoyne, Laplante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; McCollister, McGowan, McHenry, McKean, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Sherburne, Smiths, C.B.; Soule, Strout, Swazey, Theriault, Thompson, Treadwell, Tuttle, Twitchell, Vose, Webster, The Speaker.

ABSENT — Austin, Jacques, Ketover, Paul, Wentworth.

Yes, 61; No, 85; Absent, 5.

The SPEAKER: Sixty-one having voted in the affirmative and eighty-five in the negative, with five being absent, the motion did not prevail.

Sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Exempt Residents' Personal Needs Money from Bankruptcy Proceedings" (S. P. 246) (L. D. 716) which was tabled earlier in the day and later today assigned pending reference in concurrence.

Thereupon, the Bill was referred to the Committee on Business Legislation in concurrence.

(Off Record Remarks)

On motion of Mrs. Mitchell of Vassalboro, Recessed until the sound of the gong.

After Recess

11:35 A.M.

The House was called to order by the Speaker.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

Finally Passed Emergency Measure

RESOLVE, Concerning the Authority of the Attorney General to Seek Adjudication of the Nature and Scope of Cutting Rights Claimed by Private Parties on Public Lots of the State of Maine (H. P. 697) (L. D. 731)

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. 140 voted in favor of the same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Pursuant to the House Rule 19, the gentlewoman from Falmouth, Mrs. Huber, was excused from voting.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Masterman of Milo, Adjourned until ten o'clock tomorrow morning.