

# 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**

Tuesday, April 7, 1981

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

Prayer by the Reverend Larry Fairbanks of the First Church of the Nazarene, Augusta.

The Journal of yesterday was read and approved.

**Messages and Documents**

The following Communication:

**Capitol Planning Commission  
STATE OFFICE BUILDING**

Augusta, Maine

To Governor Joseph E. Brennan  
and Members of the One Hundred and  
Tenth Legislature:

Dear Governor and Legislators:

I am happy to transmit this report to you from the Capitol Planning Commission as required every two years under Title 5, Sections 297-307 M.R.S.A. There are nine of us who serve without compensation on the Commission. We serve because we believe in the need to improve and maintain our attractive Capitol Complex in Augusta, an area encompassing approximately 160 acres around the State House. Two of us live in the Complex, three in the Augusta area and four must travel distances to attend our meetings from other parts of the State.

We need your help to carry out a program aimed at making the State Capitol Complex an historic, cultural and attractively landscaped area as well as an efficient center for state governance and administration.

During the past six years, older homes have been converted into businesses along Sewall Street for example. Some of these changes have been good and some not. This trend will continue in this area and in other parts of the Complex.

Without a plan, we cannot hope to give guidance to future growth in the Complex. Without technical assistance we cannot develop an appropriate liaison with state leaders, residents of the Complex and Augusta City officials. We also cannot update and administer our Rules and Regulations that are used to guide development in the Complex.

The short report that follows sets forth the various legislative mandates the Capitol Planning Commission must follow, the goals it has set and its requests to the State Legislature. We ask for your support. An Appendix contains a list of public and private development in the complex since 1976.

Thank you.

Respectfully submitted,  
S/ANNE McI. GARDINER  
Chairperson

The Communication was read and with accompanying Report ordered placed on file.

**Petitions, Bills and Resolves  
Requiring Reference**

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

**Energy and Natural Resources**

Bill "An Act Assuring Legislative Participation in Nuclear Waste Repository Research and Development Activity within the State" (H. P. 1322) (Presented by Representative Kany of Waterville) (Cosponsors: Senator Pierce of Kennebec and Representatives Ketter of Portland and Huber of Falmouth)

(Ordered Printed)

Sent up for concurrence.

**Local and County Government**

Bill "An Act to Require that County Employees be Hired by Merit" (H. P. 1323) (Presented by Representative Berube of Lewiston) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)  
Sent up for concurrence.

**Public Utilities**

Bill "An Act to Extend the Territory of the Gardiner Water District and to Enlarge the Board of Trustees" (H. P. 1324) (Presented by Representative Weymouth of West Gardiner)

(Ordered Printed)

Sent up for concurrence.

**Taxation**

Bill "An Act to Create a Tax on Mining Companies and to Amend the Statute on Mining on State Land" (H. P. 1325) (Presented by Representative Martin of Eagle Lake)

(Ordered Printed)

Sent up for concurrence.

**Orders**

On motion of Representative McSweeney of Old Orchard Beach, it was

ORDERED, that Representative H. Craig Higgins of Portland be excused April 6 through the duration of his illness.

**Special Sentiment Calendar**

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

Recognizing:

The Stags of Cheverus High School, State of Maine Boys Class A Basketball Champions for 1981; (H. P. 1326) by Representative Joyce of Portland. (Cosponsors: Senators Conley of Cumberland and Kerry of York and Representative Higgins of Portland)

No objections being noted, the above item was considered passed and sent up for concurrence.

**House Reports of Committees  
Leave to Withdraw**

Representative Beaulieu from the Committee on Labor on Bill, "An Act to Amend the Workers' Compensation Act to Permit Rate Deductibles" (H. P. 569) (L. D. 645) reporting "Leave to Withdraw"

Representative Martin from the Committee on Business Legislation on Bill "An Act to Prohibit Contractual Allowance in Health Insurance" (H. P. 679) (L. D. 793) reporting "Leave to Withdraw" (H. P. 1679)

Reports were read and accepted and 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. 217) (L. D. 254) Bill "An Act to Prohibit Taking Antlerless Deer in Certain Municipalities and Townships"—Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-179)

(H. P. 447) (L. D. 508) Bill "An Act to Provide for the Arbitration of Disputes Between Health Insurers and Policy Holders"—Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-180)

(H. P. 833) (L. D. 1000) Bill "An Act to Prevent Certain Abuses in Door-to-Door Sales"—Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-181)

(H. P. 542) (L. D. 603) Bill "An Act to Increase the Fees and Provide for Continuing Education of Podiatrists"—Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-182)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 8 under the 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. 459) (L. D. 505) Bill "An Act to Make Operating a Vehicle under the Influence of Intoxicating Liquor or Drugs an Adult Crime Regardless of the Age of the Operator of the Vehicle" (C. "A" H-172)

(H. P. 669) (L. D. 773) Bill "An Act to Clarify and Make Corrections in the Liquor Laws" (Emergency)

(H. P. 931) (L. D. 1102) RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

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.

(H. P. 757) (L. D. 894) Bill "An Act to Create a State Compensation Commission"

On the objection of Mr. McHenry of Madawaska, was removed from the Consent Calendar.

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

(H. P. 523) (L. D. 589) Bill "An Act to Improve the Administration of Workers' Compensation Hearing and Appeals" (C. "A" H-175)

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

(H. P. 166) (L. D. 230) Bill "An Act to Clarify the School Construction Law" (C. "A" H-176)

On the objection of Mr. McCollister of Canton, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 309) (L. D. 341) Bill "An Act to Control Brucellosis in Cattle" (C. "A" H-177)

On the objection of Mr. McCollister of Canton, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 519) (L. D. 585) Bill "An Act to Allow Savings Banks and Savings Associations to Accept Demand Deposits of Their own Funds"

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.

**Second Reader****Tabled and Assigned**

Bill "An Act Concerning Residing Prior to Voting in an Election" (H. P. 793) (L. D. 947)

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

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

Mr. DIAMOND: Mr. Speaker, I move that this item be indefinitely postponed.

Whereupon, Mrs. Berube of Lewiston 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. All 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 Lincolnville, Mrs. Hutchings.

Mrs. HUTCHINGS: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would not vote to indefinitely postpone this bill.

This morning on my way in, I was handed a note from the Deputy Secretary of State with a further opinion from his office regarding the constitutionality of this question, so I would hope that you would give us the opportunity to table this for two days so that we may research this a little bit further since there does seem to be a question on both sides.

Mr. Henderson admitted to me, Jim Henderson, that there might be some question about just what we are referring to here, so I would hope that you would not vote to indefinitely postpone this bill and give us a chance to research this a little bit more.

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

Mr. DIAMOND: Mr. Speaker and Members of the House: There has been quite a bit of confusion over this matter, and hopefully we can deal with it today. The problem stems from whether or not this matter is constitutional, and in talking with the Attorney General's Office yesterday and today, it is clear that it is unconstitutional and attempts to make it constitutional would not be permissible within the bill.

I would like to give you a very quick background on why this is unconstitutional. In 1972, the United States Supreme Court struck down residency requirements as being unconstitutional, and based on a court case involving the State of Tennessee and a resident of that state, there was that opinion that their 12-month residency requirement had no justification, and the key word is 'justification' in this issue. As a result of that court case, the Supreme Court, the Attorney General Erwin in 1972, the Maine Supreme Court in 1973, and then Attorney General Brennan in 1977 reiterated the fact that in order for a residency requirement to be upheld by the courts, a state would have to prove that there is no possible way to deal with the matters the residency requirement would want to deal with other than establish a minimum time.

Under our system we have right now, we have a very simplistic registration system, and according to the Attorney General's Office, our system is not open to the kind of change that could be allowable.

Arizona was allowed a residency requirement, and that was a result of the fact that they don't have a system like we have. They have a registration system that is somewhat like our motor vehicle registration system. They have central offices where you register to vote. They have volunteers and other individuals who send in registration requests and it is the duty of the state or the proper processor to process those applications, confirm that they are valid and get back to the individuals who want to register and confirm that they are indeed registered. That takes much time and because of the complicated system that Arizona has and because they have no way, in the court's opinion, to deal with tightening their opinion without totally restructuring it, the court upheld their right to have a time or residency requirement.

But again, one thing I must point out, in doing so they said that they must cut off voter registration not only for new residents of an area but people who are already residing in that area, that means it has to be uniform.

So what it boils down to, the court said, was two cases—you have to have a justifiable reason for having that law and you have to be able to prove it, and you also have to have it uniform, it has to apply to everybody, not just the residency part but the registration part. So in their case they have a 30-day cut-off period prior to an election, that applies to everybody. No registrations whatsoever can be conducted

during that period. Therefore, the court upheld that law.

In Maine, we can't do that. We have had years of experience in saying that our registration process takes minutes, and according to the Attorney General, it would be virtually impossible under the present law to prove or to justify that we could establish such a system. It would have to be in conformity, and in no way would it be under this bill.

I appreciate the efforts that Mrs. Hutchings and the others have put into this and, unfortunately, because we both were caught off guard by some information that was distributed dealing with whether or not this is constitutional, it made this matter more important than it really should be. But it is clear to the Attorney General's Office, and he has many precedents on which to base that decision, that this current proposal would be unconstitutional, and I would again ask you to support the motion to indefinitely postpone.

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

Mrs. MITCHELL: Mr. Speaker and Members of the House: This House is very generous often in buying time for anyone who wants to research an issue, but this is one of those issues when buying time doesn't help a thing because if something is unconstitutional, it is unconstitutional. But even if you don't worry about constitutionality, please think about one thing—I think the issue is quite simple. If I move from Windham to Lincolnville Beach two weeks prior to the election, should I be voting for Mr. Diamond or Mrs. Hutchings? It is as simple as that.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, I would move that we honor the gentlewoman's request and table this bill for two legislative days.

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

Mr. HIGGINS: Mr. Speaker, I move this item lie on the table two legislative days.

Thereupon, Mrs. Mitchell of Vassalboro requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that this be tabled for one legislative day pending the motion of Mr. Diamond of Bangor to indefinitely postpone. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentlewoman from Paris, Miss Bell.

Miss BELL: Mr. Speaker, I request permission to pair my vote with the gentleman from Portland, Mr. Manning. He would be voting no and I would be voting yes.

The SPEAKER: The Chair recognizes the gentleman from Camden, Mr. O'Rourke.

Mr. O'ROURKE: Mr. Speaker, I request permission to pair my vote with the gentleman from Biddeford, Mr. Laverriere. If he were present and voting, he would be voting nay, and if I were voting, I would be voting yea.

#### ROLL CALL

YEA — Aloupis, Armstrong, Berube, Borda, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Kiesenman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Martin, A.; Masterman, Mas-

terton, Matthews, McKean, McPherson, McSweeney, Murphy, Nelson, A.; Norton, Paradis, E.; Perkins, Peterson, Racine, Randall, Reeves, J.; Salsbury, Sherburne, Small, Smith, C.W.; Soulas, Stevenson, Stover, Studley, Telow, Treadwell, Twitchell, Walker, Webster, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Borda, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Dudley, Erwin, Fitzgerald, Fowle, Gwadosky, Hall, Hayden, Hickey, Hobbins, Jalbert, Kane, Kany, Ketover, Kilcoyne, Lisnik, Locke, MacEachern, Macomber, Mahany, Martin, H.C.; McCollister, McGowan, McHenry, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C.B.; Soule, Swazey, Theriault, Tuttle, Vose, The Speaker.

ABSENT — Austin, Higgins, H.C.; Kelleher, LaPlante, Strout, Tarbell, Thompson.

PAIRED — Bell-Manning; Laverriere-O'Rourke.

Yes, 74; No, 66; Absent, 11; Paired, 4.

The SPEAKER: Seventy-four having voted in the affirmative and sixty-six in the negative, with eleven being absent and 4 paired, the motion does prevail.

Bill "An Act to Allow Voter Registration and Party Enrollment on the Same Form" (H. P. 520) (L. D. 586)

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

#### Amended Bills

Bill "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 385) (L. D. 428) (H. "A" H-178 to C. "A" H-167)

Bill "An Act to Authorize County Commissioners to Charge Rent for Space Furnished to Other Governmental Entities in County Court Houses and Other County-owned Facilities" (H. P. 753) (L. D. 890) (C. "A" H-171)

Were 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.

#### Tabled and Assigned

RESOLVE, Authorizing the Bureau of Public Lands to Convey the State's Interest in a Certain Parcel of Land in Dixmont (S. P. 290) (L. D. 816) (C. "A" S-87)

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

On motion of Mrs. Prescott of Hampden, tabled pending passage to be engrossed as amended and tomorrow assigned.

Bill "An Act Authorize Mid-State Business School to Confer Associate Degrees" (S. P. 208) (L. D. 573) (C. "A" S-88)

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

#### Passed to Be Enacted Emergency Measure

An Act to Amend the Social Worker Registration Act with Respect to Employment by Nursing Homes and to Foster Coordination with State and Federal Regulation Governing Required Social Services in Nursing Homes (S. P. 235) (L. D. 653) (C. "A" S-79)

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. 115 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.

#### Emergency Measure

An Act to Allocate Moneys for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1982 and June 30, 1983 (H. P. 339) (L. D. 387)

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

Mr. Paradis of Augusta requested a roll call vote.

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

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

The SPEAKER: This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Alopis, Armstrong, Austin, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, Carter, Chonko, Clark, Conary, Connolly, Cox, Crowley, Cunningham, Curtis, Damren, Davies, Davis, Day, Dexter, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Erwin, Fitzgerald, Fowlie, Gavett, Gillis, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, L.M.; Hobbins, Huber, Hutchings, Ingraham, Jackson, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, Kiesman, Kilcoyne, Lancaster, Lewis, Lisnik, Livesay, Locke, MacBride, MacEachern, Macpherson, Mahany, Martin, A.; Martin, H.C.; Masterman, Masterton, Matthews, McColister, McGowan, McHenry, McKean, McPherson, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paradis, E.; Pearson, Perkins, Perry, Peterson, Post, Pouliot, Prescott, Racine, Randall, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Salsbury, Sherburne, Smith, C.B.; Smith, C.W.; Soulas, Soule, Stevenson, Studley, Swazey, Telow, Theriault, Tuttle, Twitchell, Vose, Webster, Wentworth.

NAY — Connors, Foster, Holloway, Hunter, Jordan, Leighton, Lund, Nelson, A.; O'Rourke, Paradis, P.; Small, Stover, Treadwell, Walker, Weymouth, The Speaker.

ABSENT — Dudley, Higgins, H.C.; Kelleher, LaPlante, Laverriere, Manning, Michael, Paul, Strout, Tarbell, Thompson.

Yes, 124; No, 16; Absent, 11.

The SPEAKER: One hundred twenty-four having voted in the affirmative and sixteen in the negative, with eleven being absent, the Bill is passed to be enacted as an emergency measure.

Signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Allocate Moneys for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1982 and June 30, 1983 (H. P. 340) (L. D. 388) (C. "A" H-146)

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. 126 voted in favor of same and 4 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Provide Compensation and Benefits Agreed to by the State and Council #74, American Federation of State, County and Municipal Employees for Employees in the Institutional Services Bargaining Unit (H. P. 617) (L. D. 700) (C. "A" H-140)

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.

#### Emergency Measure

An Act Concerning Foreign Trade Zones (H. P. 789) (L. D. 943)

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

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, I would like to pose a question through the Chair. I would like an explanation about what L.D. 943 does.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentlelady's question, this bill amends the current law which provided marketing grants to any area designated as a foreign trade zone, and also extends it to any subzone, qualifying subzone.

The current law is scheduled to expire at the end of this fiscal year and the law is being amended to allow it to continue. In other words, the lapsing provision is removed from the bill.

The SPEAKER: This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

A vote of the House was taken.

134 having voted in the affirmative and none in the negative, the Bill was passed to be enacted.

Signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act to Revise the Charter of the Richmond Utilities District (S. P. 254) (L. D. 723) (C. "A" S-78)

An Act to Require State Bond Issues to Include all Interest Involved (H. P. 195) (L. D. 242)

An Act Relating to the Per Diem and Case Assignments for the State Board of Arbitration and Conciliation (H. P. 280) (L. D. 310) (C. "A" H-135)

An Act Changing the Name of the Department of Manpower Affairs and Clarifying the Term of its Commissioner (H. P. 291) (L. D. 335) (S. "A" S-86 to H. "A" H-139)

An Act to Provide for a Municipal Hearing on a Speed Limit set by the Department of Transportation (H. P. 383) (L. D. 426) (C. "A" H-144)

An Act Concerning the Posting of Notice of the Regular Meetings of County Commissioners (H. P. 433) (L. D. 480) (C. "A" H-143)

An Act to Authorize in Proceedings before the Public Utilities Commission the Appearance by an Officer or Employee of a Corporation or Partnership (H. P. 528) (L. D. 594)

An Act to Authorize Joint Custody Orders as Part of Divorce Judgments (H. P. 844) (L. D. 1010)

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.

#### Orders of the Day

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

Bill, "An Act to Permit Knox County to Withdraw from the Maine State Retirement

System" (H. P. 487) (L. D. 539) (C. "A" H-128)  
Tabled—April 3 by Representative Nelson of Portland.

Pending—Passage to be Engrossed.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I just wanted to explain the reason why we are tabling this. There is further information that we need regarding this bill and we are waiting for the actuary's figures at this point. So I would appreciate it if someone would table this bill for two more legislative days.

Thereupon, on motion of Mr. Diamond of Windham, tabled pending passage to be engrossed and specially assigned for Thursday, April 9.

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

Joint Order—Relative to the Committee on Business Legislation reporting out a bill to the House concerning the sale of new, used, reconditioned or rebuilt parts of consumer goods under the Uniform Commercial Code (H. P. 1309)

—In House, Read and Passed on April 2.

—In Senate, Indefinitely Postponed.

Tabled—April 6 by Representative Brannigan of Portland.

Pending—Further Consideration.

On motion of Mr. Brannigan of Portland, the House voted to recede and concur.

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

Bill, "An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1982 and June 30, 1983" (Emergency) (H. P. 345) (L. D. 393)

Tabled—April 6 by Representative Diamond of Windham.

Pending—Passage to be Engrossed.

On motion of Mr. Pearson of Old Town, retabled pending passage to be engrossed and tomorrow assigned.

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

House Divided Report—Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Judiciary on Bill, "An Act to Exempt Illegal Possession of Liquor from the Maine Juvenile Code" (H. P. 875) (L. D. 1044)

Tabled—April 6 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either Report.

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

Mr. HOBBS: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker and Members of the House: I would like to briefly draw your attention to why I voted for the minority report. Earlier today, under the hammer, on the Consent Calendar Second Day, we acted on a bill that I feel this piece of legislation here, the minority report, supports wholeheartedly. I feel that for this piece of legislation that went under the hammer earlier today to be meaningful, we need to pass the minority report, and I would ask you to go with me and vote for the minority report after you have checked the other one back on the Second Day Consent Calendar, and I would request a roll call vote.

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

Mr. CARRIER: Mr. Speaker and Members of the House: It is unfortunate that this bill was not discussed yesterday, the same time that we discussed the Consent Calendar yesterday.

Actually, one of the things this bill does that is extremely appealing to me is that it does

give us a chance to make it a crime for the young people who go and buy booze illegally, instead of putting the burden on the grocery store operator when they are under age and they go and buy liquor. Essentially, this is one of the things that it does, but the fact that it is before us now and because we passed yesterday L. D. 505 on the Consent Calendar, and we passed it again today, it makes the situation inconsistent. Although L. D. 505 has been amended, it still could, under certain circumstances, make the juvenile offender driving under the influence be treated as an adult and thereby it is a violation.

These two bills are not the best bills that have come up, but they both have some value. If I were to choose between the two of them, and I think both of them are good, as the report shows, I would support and am supporting the minority on this particular bill, L. D. 1044. For this reason and many others, if you want to actually clamp down on people who buy liquor who are under age, don't put all the burden on the one that sells it. He probably deserves a certain burden, and he surely has right now, but give the people a chance and make it so the one who actually buys will be punished.

I wish you would consider voting against the "ought not to pass" report so we can accept the "ought to pass" report.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: Ten members of the Committee on Judiciary reviewed this whole issue in regards to illegal possession of liquor and how it relates to the Maine Juvenile Code. It was the majority opinion on the committee that this should remain a juvenile crime.

If you remember a few years ago, the Maine Juvenile Code was passed after an extensive Revision Commission was established by the 107th Maine Legislature. Presently under our statutes, a juvenile crime is defined as those crimes which are not serious crimes. However, the Legislature and the Juvenile Revision Commission realized that those crimes which were serious, which involved bodily injury or extensive property damage, should be considered and that individual should be considered, who is a juvenile, as an adult for those purposes. There was a distinction made between serious crimes which would be treated under the Criminal Code as an adult and those crimes which would be considered under the Juvenile Code and would be considered juvenile crimes.

One of these particular areas was the area which is addressed in this bill, and that is the illegal possession, purchasing or consumption of liquor. It was the policy of that commission, and the legislature since that time, that this offense should be considered a juvenile offense.

Under the present Juvenile Code, there is a provision for juvenile intake workers. It has been in existence now for three and a half years, and from all reports, the juvenile intake worker system has worked fairly efficiently in weeding out those crimes which are not serious crimes.

There was a bill on the Consent Calendar, Second Day, this morning which will be addressed in the Governor's comprehensive package in regards to operating under the influence. What the legislature hopefully will do is tighten up that instance where a person who was convicted of driving under the influence when they were a minor and that person would be considered an adult. Under present law, that individual can go to juvenile intake and that person's license might not be suspended. So, this particular provision of that bill will tighten up that aspect of the Code.

It is my hope this morning that we will remain consistent with the overall philosophy of the Juvenile Code and allow these particular crimes of selling, possession of intoxicating liquor and consumption of liquor a juvenile crime.

There are certain instances where we have youngsters in this state, who are 14, 15, 16, who need help. They don't need to be arrested and treated as an adult, they need some type of counseling which can take place through the juvenile intake system. It is my hope that this legislature does not go a step backwards in re-criminalizing something which has been looked at very carefully and which the majority of the committee and legislatures in the past have felt should remain a juvenile crime.

I urge you to accept the Majority "Ought Not to Pass" Report.

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

Mr. CONARY: Mr. Speaker, Men and Women of the House: I rise to very softly disagree with the gentleman from Saco, Mr. Hobbins. I think I heard him say at least twice that this is not a serious offense, and I simply disagree with that.

I sponsored this bill, and to be very honest with you, for a couple of small store owners in my district who described a situation where a 17-year-old or a 16-year-old attempts to buy beer in the store. Whether he has a false ID or whatever reason, the scenario goes like this. The minor, or the juvenile, walks into the store, and I am not a lawyer, and attempts to break the law. Unless the store owner is actually standing in the window flipping on his beer light, I think the juvenile enters the premises with the intention of buying beer, and for whatever reason, kids are pretty street wise today and I think they know that they are not really in serious trouble. I just think it is time that we send out a message that this is serious, and I hope you go along with the minority report today. Just keep in mind, who intends to break the law in this instance? I think the answer to that question each time is the juvenile.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker and Members of the House: I am a cosponsor of this L.D., and I am a cosponsor for a couple of different reasons. I am 27 years old, but I remember 10 years ago very well. We used to try to buy beer whenever we could, and we thought it was a big joke because no matter what happened, when we got caught we got off. The store keeper paid the \$250 or \$300 fine.

Mr. Hobbins has said it is not a serious crime, but it is. We had an accident, it was on the front page of the Waterville Morning Sentinel not too long ago, and in the picture, they both were minors, there were some beer bottles and a fifth in that picture. These kids got that stuff somewhere and it proved fatal to both of them. I consider that pretty serious.

My main argument is, we are not doing these kids any favor by letting them off. I know, I remember well. It used to be a joke, we thought it was a heck of a joke, that the store owner would get it and we would get nothing, and that is the way it is today.

I also own a store. The other night I happened to be inside the store cutting meat and this young kid came in, probably 16 years old, and that is pushing it, walked over just as bold as could be, grabbed a six-pack of beer out of the cooler, put it on the counter. The girl said, do you have an ID? He said, no, I don't need one, I have been buying beer for quite a few years now. I came over and said, I need an ID with your picture on it, a State of Maine liquor ID, and I won't tell you what he told me. He turned around and boldy as could be walked out of the store. I walked out not too far behind him and followed him. He went up the street, around the corner, to the Early Bird Market and walked right in and tried the same thing there, and they threw him out, but eventually that kid is going to find a place where he can buy it, because I can remember that.

I am not for punishing children for doing children's acts. This is not a child's act. This is an act that has very serious connotations to it and

lots of times has very serious results. That is why I sponsored this bill.

I must repeat, we are not doing those kids any favors by telling them it is okay because you are young. I hope you will go against the majority of the Judiciary Committee and go along with the minority report, because I think it is very important that these kids realize, and as Mr. Conary said, they are very street wise, you are not going to fool them, they know the laws better than we do, most of us, and they use them to their advantage.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: If I may just address a few points which were raised by the previous speakers. The first point I would like to raise is, ten years ago when Mr. Jacques says he attempted to buy liquor, it was an adult crime, it wasn't a juvenile crime. The Juvenile Code has only been in existence for two and a half years. I am not trying to underestimate the severity of our alcohol situation in this state and this country.

The point I would like to just raise is, I think there are ways to handle it. When you talk about the store owner, the store owners will complain to you but they won't tell you that sometimes they sell liquor without a state ID. The law is, if they have any doubt at all, that person should display a state identification card. And if they have any question at all with a fake ID or if there is no identification card, that store owner should refuse to sell it, but we don't find that in some situations. Some store owners will say, well, he looks close enough and will take the \$3.20 for the six-pack of beer. That is easy, and we can blame the kids for some of the store owners' problems.

Fortunately, the good gentleman from Waterville, Mr. Jacques, runs a good operation; he requires state liquor identification cards, and I respect that, but there are some store owners who want to pass the burden, who want to say, well, we will make it an adult crime and that way will shirk our responsibility to check the state identification cards.

It is easy to get up and talk emotionally about all these issues and talk about the problems with the issues. Again, making this an adult crime won't solve the problem. In fact, under the present statute, it is a juvenile crime, it can be handled through two things — an intake system, and if there is irresponsibility or if that person doesn't pay the fine in an instance, then it can be treated as a criminal offense under present law. If a minor is fined for some particular violation of buying liquor from a store owner, he or she pays a fine. It is treated as a juvenile offense, but they pay a fine, and if they don't pay the fine, then it is considered a criminal offense — that is present law.

I would hope this morning that you would look at this issue, take your statute books out and look at what juvenile crimes are and look at what particular aspects of the statutes are addressed with this particular bill. I urge you this morning to accept the majority report.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker and Members of the House: Briefly, I do have a concern that the officer who pulls the vehicle over with the driver of any age driving as the bill that went under the hammer this morning, pulls the vehicle over and finds that he is correct, he has made all the checks that he is supposed to do, and he decides that this person should be arrested for driving under; yet, we accept the "ought not to pass," the heading is "An Act to Exempt Illegal Possession," it bothers me what that officer is going to do about the jug setting on the seat, which would be evidence, and we are operating under a different set of rules here. I am not sure that the officer can take this. I may be wrong, but I am not sure;

we are operating under two different sets of rules, and that is another item that bothers me.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker and Members of the House: Just two quick points. Any store owner who takes a chance selling somebody a six-pack of beer is not only irresponsible, he is a fool, an outright fool, because he is going to pay a fine of at least \$200 and probably lose his license for 30 days to sell beer. Now, a 40 cent profit on a six-pack of beer is hardly worth taking that chance.

One of the problems we have is not the store owners but the people who work for the store owners. You know as well as I do that they don't have the same concern that the store owner does. They just work there. That is a problem.

The third point is, as my good friend that I respect very much, Mr. Hobbins, said, these young people do pay fines. Well, the young people don't pay fines; mama and daddy pay the fines, it doesn't affect the kid at all.

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 pending question is on the motion of the gentleman from Saco, Mr. Hobbins, 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 — Baker, Bell, Benoit, Brannigan, Brennerman, Brodeur, Connolly, Cox, Davies, Diamond, J. N., Fitzgerald, Foster, Gowen, Gwadosky, Hayden, Hobbins, Huber, Hutchings, Ingraham, Joyce, Kane, Livesay, Locke, Lund, McHenry, Michael, Michaud, Mitchell, E. H., Mitchell, J., Nadeau, O'Rourke, Racine, Reeves, P., Richard, Rolde, Soulas, Soule, Thompson.

NAY — Aloupis, Armstrong, Austin, Beaulieu, Berube, Boisvert, Bordeaux, Boyce, Brown, A., Brown, D., Brown, K. L., Cahill, Callahan, Carrier, Carroll, Carter, Chonko, Clark, Conary, Conners, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Diamond, G. W., Dillenback, Drinkwater, Dudley, Erwin, Fowle, Gavett, Gillis, Hall, Hanson, Hickey, Higgins, L. M., Holloway, Hunter, Jackson, Jacques, Jalbert, Jordan, Kany, Ketover, Kiesman, Kilcoyne, Lancaster, Leighton, Lewis, Lisnik, MacBride, MacEachern, Macomber, Mahany, Martin, A., Martin, H. C., Masterton, Matthews, McCollister, McGowan, McKean, McPherson, McSweeney, Moholland, Murphy, Nelson, A., Nelson, M., Norton, Paradis, E., Paradis, P., Paul, Pearson, Perkins, Perry, Peterson, Post, Poullet, Prescott, Randall, Reeves, J., Ridley, Salisbury, Sherburne, Small, Smith, C. B., Smith, C. W., Stevenson, Stover, Studley, Swazey, Telow, Theriault, Treadwell, Tuttle, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth.

ABSENT — Higgins, H. C., Kelleher, LaPlante, Laverriere, Manning, Masterman, Roberts, Strout, Tarbell.

Yes, 38; No, 103; Absent, 9.

The SPEAKER: Thirty-eight having voted in the affirmative and one hundred three in the negative, with nine being absent, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

The following papers from the Senate appearing on Supplement No. 1 were taken up out of order by unanimous consent:

#### Ought Not to Pass

Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Pertaining to Witness Fees Paid by the District Courts" (S. P. 440) (L. D. 1267)

Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Amend the Law Concerning Bail Commissioners" (S. P. 386) (L. D. 1144)

Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act Concerning Cruelty to Animals" (S. P. 86) (L. D. 183)

Pursuant to Joint Rule 22, were placed in the Legislative Files in concurrence.

#### Leave to Withdraw

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Allow Court Witnesses their Reasonable Expenses Subject to Certain Limits" (S. P. 387) (L. D. 1145)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Enact the Uniform Parentage Act" (S. P. 407) (L. D. 1239)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Require Health Insurance Policies to Expressly State Exclusions" (S. P. 289) (L. D. 815)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Remove the Political Sign Restrictions from the Billboard Law" (S. P. 328) (L. D. 958)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Exempt Certain Agricultural Signs from the Billboard Law" (S. P. 372) (L. D. 1114)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Relating to Lighted Advertising Signs" (S. P. 441) (L. D. 1268)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act to Require that Certain Town Reports List all Property Owners and their Taxes" (S. P. 332) (L. D. 962)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act Concerning the Reappointment of Sheriffs' Deputies" (S. P. 297) (L. D. 842)

Came from the Senate with the Reports read and accepted.

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

#### Special Sentiment Calendar

Recognizing:

Waterville High School Hockey Team, 1981 Class A State Champions, for the third consecutive year; (S. P. 552)

No objections having been noted, the above item was considered passed in concurrence.

The following paper from the Senate appearing on Supplement No. 2 was taken up out of order by unanimous consent:

#### Divided Report

Majority Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act Relating to Standards of the Maine Land Use Regulation Commission" (S. P. 264) (L. D. 746)

Report was signed by the following members:

Representatives:

KIESMAN of Fryeburg  
MITCHELL of Freeport  
HALL of Sangerville  
MICHAEL of Auburn  
HUBER of Falmouth  
MICHAUD of East Millinocket  
JACQUES of Waterville  
DAVIES of Orono

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-91) on same Bill.

Report was signed by the following members:

Senators:

McBREAIRTY of Aroostook  
O'LEARY of Oxford  
REDMOND of Somerset

— of the Senate.

Representatives:

DEXTER of Kingfield  
AUSTIN of Bingham

— of the House.

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

In the House: Reports were read.

On motion of Mr. Hall of Sangerville, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following paper from the Senate appearing on Supplement No. 3 was taken up out of order by unanimous consent:

#### Ought to Pass in New Draft/New Title

Report of the Committee on Health and Institutional Services on Bill "An Act to Assure Residential Services for Developmentally Disabled Persons" (S. P. 127) (L. D. 299) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Facilitate the Development of More Placements in Boarding Homes that are Small, Homelike and Safe for Ambulatory and Mobile Nonambulatory Persons" (S. P. 551) (L. D. 1516)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the New Draft read once and assigned for second reading tomorrow.

The following paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

The following Communication:

The Senate of Maine  
Augusta

April 6, 1981

The Honorable Edwin H. Pert  
Clerk of the House  
110th Legislature  
Augusta, Maine 04333  
Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it accepted the Majority Ought Not to Pass Report on "RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require that for Certain Counties, a Specific Percentage of the Population be Included in a Separate Senate District" (H. P. 608) (L. D. 685).

Sincerely,

/S/MAY M. ROSS  
Secretary of the Senate

The Communication was read and ordered placed on file.

The following paper appearing on Supplement No. 5 was taken up out of order by unanimous consent:

The following Joint Resolution: (S. P. 553)  
JOINT RESOLUTION TO COMMEMORATE  
A VISIT OF THE  
U.S.S. PORTLAND, LSD 37,  
TO THE CITY OF PORTLAND AND STATE  
OF MAINE

WHEREAS, on April 10, 1981, the United States Ship Portland will enter Portland



Harbor for the purpose of an official visit to the City of Portland and State of Maine; and

WHEREAS, the officers and men of the U.S.S. Portland will display to the citizens of Portland and the State of Maine the United States Navy ship which proudly bears the name of Maine's largest city; and

WHEREAS, this visit marks the second occasion on which the U.S.S. Portland, its officers and crew, have visited Portland, Maine and is the second occasion since 1945 that a United States Navy ship bearing the name "Portland" has visited the City of Portland; and

WHEREAS, the U.S.S. Portland, since being commissioned in 1970, has established a record of superior performance as the result of a proud, aggressive and persevering crew; and

WHEREAS, the officers and crew of the U.S.S. Portland serve as roving ambassadors for the City of Portland, Maine during the ship's travels to many ports-of-call throughout the world; and

WHEREAS, the visit of the U.S.S. Portland to Maine's largest city and to the State of Maine is an occasion of great significance to Maine and its citizens; now therefore, be it

RESOLVED: That We, the Members of the 110th Legislature while duly assembled in regular session at the Capitol in Augusta do extend our welcome to the officers and crew of the U.S.S. Portland upon the occasion of the ship's visit to Portland and the State of Maine; and be it further

RESOLVED: That a duly authenticated copy of this Resolution of welcome be sent forthwith on behalf of the Legislature and the People of Maine to Commander Michael B. Connolly, USN, Commanding Officer of the U.S.S. Portland upon the occasion of that vessel's arrival at Portland Harbor.

Came from the Senate read and adopted.

In the House, under suspension of the rules, the Resolution was read and adopted in concurrence.

On motion of Mr. Michaud of East Millinocket,

Adjourned until nine-thirty tomorrow morning.