

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

HOUSE

Monday, February 14, 1983

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

Prayer by the Reverend John W. Neff of the United Methodist District, Winthrop.

The members stood at attention during the National Anthem by the Cony High School Band of Augusta.

The journal of the previous session was read and approved.

Papers from the Senate

Bill "An Act to Extend Maine's Returnable Deposit Law" (S. P. 183) (L. D. 609)

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

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

Bill "An Act to Close the Deer Hunting Season in Wildlife Management Unit #6 for a Period of 3 Years" (S. P. 196) (L. D. 618)

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

In the House, was referred to the Committee on Fisheries and Wildlife in concurrence.

Bill "An Act to Require the Department of Labor to Make Available to All Claimants for Unemployment Insurance, the Complete Set of All Department of Labor Rules and Policies Governing the Determinations of Eligibility and Payment of Benefits" (S. P. 190) (L. D. 613)

Bill "An Act to Provide for the Negotiation of Union Security Provisions" (S. P. 189) (L. D. 612)

Bill "An Act to Repeal the nonnegotiability of Educational Policies" (S. P. 188) (L. D. 611)

Bill "An Act to Revise the University of Maine Arbitration Procedures" (S. P. 187) (L. D. 610)

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 Prohibit Public Utilities from including Uncompleted Construction Work Costs in their Rates" (S. P. 191) (L. D. 614)

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

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

Bill "An Act to Provide Sales Tax Credit on Stolen Vehicles" (S. P. 194) (L. D. 617)

Bill "An Act to Amend the Farm and Open Space Tax Law Recapture Penalty" (S. P. 193) (L. D. 616)

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1983-84" (Emergency) (S. P. 192) (L. D. 615)

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

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

Reports of Committees**Unanimous Leave to Withdraw**

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Concerning Charges for Certain Credit Cards" (S. P. 92) (L. D. 223)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Messages and Documents

The following Communication:

State of Maine
Office of the Governor
Augusta, Maine

February 10, 1983

Honorable John L. Martin

Speaker of the House
House of Representatives
State House

Augusta, Maine 04333

Dear Speaker Martin:

In keeping with the provisions of Article V, Part I, Section 9 of the Maine Constitution, which requires that the Governor,

"...from time to time give the Legislature information of the condition of the State, and recommend to their consideration such measures, as he may judge expedient",

I request the opportunity to deliver a State of the State message on Tuesday, February 22, 1983, at 7:00 p.m.

I realize that the evening hour I am suggesting is something of a departure from tradition. However, I would like to give more Maine citizens the opportunity to hear this State of the State message than would be possible at an earlier hour.

I shall await your response to my request.

Sincerely,
S/JOSEPH E. BRENNAN
Governor

Was read and ordered placed on file.

The following Communication:

State of Maine
Department of Human Services
Augusta, Maine

February 8, 1983

Honorable John Martin

Speaker of the House

Maine State Legislature

State House

Augusta, ME 04333

Dear John Martin:

Pursuant to the requirements of Chapter 415 of the Public Laws of the 109th Maine Legislature, the Department of Human Services' DES Program has forwarded a copy of their annual report to Senator Beverly Bustin and Representative Merle Nelson, Chairpersons of the Health and Institutional Services Committee. A copy is enclosed for your information.

Should you have any questions, please contact Karen Truemper in the Bureau of Health at 289-3201.

Thank you.

Sincerely your,
S/MICHAEL R. PETIT
Commissioner

Was read and with the accompanying report ordered placed on file.

The following Communication: (H. P. 589)

State of Maine
Department of Conservation
State House Station 22
Augusta, Maine 04333

February 10, 1983

Honorable John L. Martin

Speaker of the House

111th Maine Legislature

State House Station #2

Augusta, Maine 04333

Dear Representative Martin:

I am enclosing a copy of the 1983 Forest Insect Managers Report as required by Title 12, Chapter 803, Subchapter IV-A, MRSA.

Should you have any questions about this report, I would be pleased to respond.

Sincerely,
S/THOMAS A RUMPF
Forest Insect Manager

Was read and with the accompanying report referred to the Committee on Appropriations and Financial Affairs and sent up for concurrence.

The following Communication: (H. P. 193)

State of Maine
111th Legislature
Local and County Government

February 10, 1983

The Honorable Gerard P. Conley
President of the Maine Senate

111th Legislature

The Honorable John L. Martin

Speaker of the Maine House

111th Legislature

Dear President Conley and Speaker Martin:

We are pleased to inform you that all county delegations to the 111th Legislature have organized with choices of chairpersons.

County delegation chairpersons are as follows:

Counties

Androscoggin—Senator Richard R. Charette

Aroostook—Senator Paul Elmer Violette

Cumberland—Representative Harlan Baker

Franklin—Representative Edward L. Dexter

Hancock—Senator Thomas R. Perkins

Kennebec—Representative Patrick E.

Paradis

Knox—Representative James H. Mayo

Lincoln—Senator Charlotte Z. Sewall

Oxford—Representatives Phyllis R. Erwin

and Laurence L. Kiesman

Penobscot—Representative Edward C.

Kelleher

Piscataquis—Senator Charles P. Pray

Sagadahoc—Representative Mary E. Small

Somerset—Representative Donald M. Hall

Waldo—Representative Lloyd G. Drinkwater

Washington—Senator Larry M. Brown

York—Representative George A. Carroll

Sincerely,

S/R. DONALD TWITCHELL

Senate Chairman

S/EDWARD A. McHENRY

House Chairman

Was read and ordered placed on file and sent up for concurrence.

The following Communication: (H. P. 590)

State of Maine
House of Representatives
Augusta 04333

February 10, 1983

John L. Martin

Speaker of the House

111th Legislature

Gerard P. Conley

President of the Senate

111th Legislature

Dear Mr. Speaker and Mr. President:

On February 10, 1983, one Bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, the bill was referred to the Joint Standing Committee on Public Utilities on February 10, 1983.

Public Utilities

Bill "An Act to Amend the Charter of the Eagle Lake Water District to Provide for the Election of Trustees" (Emergency) (H. P. 588) (L. D. 669) (Presented by Speaker Martin of Eagle Lake)

Sincerely,

S/EDWIN H. PERT

Clerk of the House

S/JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence.

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:

Later Today Assigned

Bill "An Act to Clarify the Law Regarding Repayment of State Capitation Payment for Postgraduate Education in Medicine" (H. P. 594) (Presented by Representative Brannigan of Portland) (Cosponsor: Senator Najarian of Cumberland)

Committee on Education was suggested.

On motion of Mr. Carter of Winslow, tabled pending reference and later today assigned.

Education

Bill "An Act to Designate the Division of Eye Care as the Local Educational Agency under the Special Education Laws" (H. P. 585) (Presented by Representative Beaulieu of Portland) (Cosponsors: Senators Najarian of Cumberland, Hichens of York and Representative Nelson of Portland)
(Ordered Printed)
Sent up for concurrence.

Energy and Natural Resources

Bill "An Act Concerning the Agricultural Usage of Tannery Sludge" (H. P. 596) (Presented by Representative McGowan of Pittsfield) (Cosponsors: Senator Bustin of Kennebec, Representatives Callahan of Mechanic Falls and Bell of Paris)
(Ordered Printed)
Sent up for concurrence.

Health and Institutional Services

Bill "An Act to Prohibit Smoking in Indoor Public Waiting Areas" (H. P. 597) (Presented by Representative Andrews of Portland) (Cosponsors: Representatives Allen of Washington and Richard of Madison)
(Ordered Printed)
(Sent up for concurrence.)

Judiciary

Bill "An Act to Amend the Termination of Parental Rights Act" (H. P. 591) (Presented by Representative Soule of Westport)

Bill "An Act to Protect Employees from Reprehal who Report or Refuse to Commit Illegal Acts" (H. P. 592) (Presented by Representative Andrews of Portland) (Cosponsors: Representatives Gauvreau of Lewiston, Beaulieu of Portland and Senator Hayes of Penobscot)
(Ordered Printed)
Sent up for concurrence.

Passed to Be Engrossed

Bill "An Act to Clarify Legislative Intent on Setting Insurance Rates for Workers' Compensation Insurance" (Emergency) (H. P. 598) (Presented by Speaker Martin of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Committee on Labor was suggested.

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

By unanimous consent, ordered sent forthwith to the Senate.

Taxation

Bill "An Act to Allow a Refund of Sales Tax on Depreciable Machinery and Equipment used in Aquaculture" (H. P. 593) (Presented by Representative Soule of Westport) (Cosponsors: Representatives Holloway of Edgecomb and Manning of Portland)

Bill "An Act to Provide a Sales Tax Credit for Vehicles which are Sold when Another Vehicle is Purchased" (H. P. 599) (Presented by Representative Armstrong of Wilton) (Cosponsors: Representatives Seavey of Kennebunkport and Scarpino of St. George)

(Ordered Printed)

Sent up for concurrence.

Orders

In Memory of:
the Honorable Nathaniel M. Haskell, a distinguished citizen of Portland and member of the 91st, 92nd, 93rd, 94th, 95th and 96th Maine Legislatures, Speaker of the House of Representatives from 1949-1950, President of the Senate from 1953-1954 and former Governor of Maine; (SLS 41)

On the request of Representative Brannigan of Portland, was removed from the Special Sentiment Calendar.

The SPEAKER: The Chair recognizes the gen-

tleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: Nat Haskell may be remembered in state circles as Governor of Maine, for he was governor for a day, but I believe that he should not be remembered as governor but for the work that he did in the legislative branch as a member of this body and Speaker here, as a member of the other body and President there.

He also will be remembered in my county and in my city as long time (20 years) judge of probate, distinguished member of the Bar and active civic leader. He will also be remembered in my district as a solid citizen, as a good husband, a loving father and a good neighbor. He leaves all of these memories and no one could leave more.

We will remember him and be glad to have known him.

Thereupon, the Resolution was adopted in concurrence.

House Reports of Committees

Unanimous Ought Not to Pass

Representative Drinkwater from the Committee on Judiciary on Bill "An Act Regarding the Recording of Divorce Decrees in the Registry of Deeds" (H. P. 123) (L. D. 131) reporting "Ought Not to Pass"

Representative Hayden from the Committee on Judiciary on Bill "An Act Concerning Forfeitures of Property Under the Drug Laws" (H. P. 152) (L. D. 160) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15, and sent up for concurrence.

Unanimous Leave to Withdraw

Representative Crouse from the Committee on Education on Bill "An Act to Move the Date for Finalization of the Municipal School Budget from June 30th to September 30th of each year" (H. P. 302) (L. D. 361) reporting "Leave to Withdraw"

Representative Carrier from the Committee on Judiciary on Bill "An Act Concerning the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances" (H. P. 141) (L. D. 149) reporting "Leave to Withdraw"

Representative Moholland from the Committee on Transportation on Bill "An Act Concerning Drivers' Tests for the Elderly" (H. P. 216) (L. D. 259) reporting "Leave to Withdraw"

Representative Moholland from the Committee on Transportation on Bill "An Act to Make the Photographic Drivers' License Optional Rather than Mandatory" (H. P. 210) (L. D. 254) reporting "Leave to Withdraw"

Representative Lewis from the Committee on Labor on Bill "An Act to Make the Definition of a Municipal Public Employee Consistent with the Definition of a State Employee for Purposes of Collective Bargaining" (H. P. 337) (L. D. 396) reporting "Leave to Withdraw"

Representative Connors from the Committee on Marine Resources on Bill "An Act to Allow the Use of Purse Seines in Washington County" (H. P. 181) (L. D. 210) reporting "Leave to Withdraw"

Representative McGowan from the Committee on Public Utilities on Bill "An Act to Increase the Salaries of the Trustees of the Mapleton Sewer District" (H. P. 255) (L. D. 305) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15, and sent up for concurrence.

Referred to Committee on Transportation

Representative Vose from the Committee on Public Utilities on Bill "An Act to Require Reflectors or Reflectorized Material on Railroad Cars Owned or Leased by Maine Railroads" (H. P. 423) (L. D. 506) reporting that it be referred to the Committee on Transportation.

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

Ought to Pass in New Draft

Representative Moholland from the Committee on Transportation on Bill "An Act Regarding Passengers on Motorcycles" (H. P. 76) (L. D. 81) reporting "Ought to Pass" in New Draft (H. P. 587) (L. D. 668)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Tuesday, February 15.

Ought to Pass in New Draft/New Title

Representative Ketover from the Committee on State Government on Bill "An Act Establishing Authority for a Forms Management Function Within the Department of Finance and Administration, Bureau of Purchases" (H. P. 82) (L. D. 91) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to the Purchasing and Printing of Forms for State Government" (H. P. 584) (L. D. 665)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Tuesday, February 15.

Representative Moholland from the Committee on Transportation on Bill "An Act to Establish a Directional Sign at Exit 8 of the Maine Turnpike for Southern Maine Vocational-Technical Institute" (H. P. 21) (L. D. 17) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish Directional Signs on the Maine Turnpike, one at Exit 7 for the Southern Maine Vocational-Technical Institute, and another at Exit 4 for the University of New England" (Emergency) (H. P. 585) (L. D. 666)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Tuesday, February 15.

Representative Moholland from the Committee on Transportation on Bill "An Act to Exempt Certain Fire Trucks From the Motor Vehicle Inspection Laws" (H. P. 84) (L. D. 93) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Pertaining to Inspection of Fire Trucks" (H. P. 586) (L. D. 667)

Report was read and accepted, the New Draft given its first reading and assigned for second reading, Tuesday, February 15.

Consent Calendar First Day

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

(H. P. 156) (L. D. 181) Bill "An Act Concerning the Marking of Wild Birds" Committee on Fisheries and Wildlife reporting "Ought to Pass"

(H. P. 172) (L. D. 202) Bill "An Act to Transfer Fayette from the Northern Kennebec to the Southern Kennebec Judicial Division of the District Court" Committee on Judiciary reporting "Ought to Pass"

(H. P. 212) (L. D. 256) Bill "An Act to Repeal the Requirement for an Audible Warning when Passing in a Motor Vehicle" Committee on Transportation reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of February 15, under the listing of Second day.

Tabled and Assigned

(H. P. 19) (L. D. 15) Bill "An Act to Eliminate the Requirement that Persons Over 75 Years of Age Take Periodic Driving Tests" Committee on Transportation reporting "Ought to Pass"

On the request of Mr. Carroll of Limerick, was removed from the Consent Calendar.

On motion of the same gentleman, tabled pending acceptance of the Committee Report and specially assigned for Wednesday, Febru-

ary 16.

Consent Calendar

Second Day

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

(H. P. 377) (L. D. 460) Bill "An Act to Provide for Identification on Dentures"

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

Failed of

Passage to Be Engrossed

Bill "An Act to Permit Bowling Alleys to Sell Spirituous, Vinous and Malt Liquor" (H. P. 178) (L. D. 207)

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

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

Mr. BRODEUR: Mr. Speaker and Members of the House: I would like to have a division on this bill and speak to it. This bill isn't a major issue in itself, and I am speaking only on this bill to give you some of the reasons why I voted against it.

I remember bowling alleys as a place where I went when I was in the sixth or seventh grade to go bowling. I also remember it as a place where I went with my family, my father, my uncles, my cousins, my brother and sisters. Saturday morning, I heard of the snow storm cancelling a children's bowling league.

When I vote on a bill, I like to look at how it benefits the people of Maine or what problems it could cause. I heard the arguments how this could benefit the people of Maine last week, but I have an idea of some of the problems that alcoholism and alcohol abuse could cause, and although this isn't the major impact on that, it does have some impact by increasing the availability of hard liquor, which I consider to be a hard drug.

Seven hundred million dollars it will cost the State of Maine is what a study that was just concluded showed because of loss of productivity, health problems, direct cost for treatment, education, to prevent the problem of alcohol and alcohol abuse. A majority of the adults in our correctional institutes have problems relating to alcoholism or alcohol abuse as a contributing factor, and there is a significant amount of child abuse and neglect, a significant amount of spouse abuse with alcohol and alcohol abuse as a contributing factor, OUI and matters of such, so that is why I am voting against this bill.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: It is true, this is not a terribly important bill, perhaps, but it is very important to the people who are trying to make a living in the State of Maine. Our bowling lanes, like everything else, are struggling and they need all the advantages and help they can get.

If the children are going into the bowling alleys, I wonder if they are also going into the airline stations, civic auditoriums, they certainly are going into Class A restaurants, they certainly go into clubs that have catering privileges. We don't have too many dining cars anymore, but certainly all the schools that I know have golf clubs, associations, they go into the golf clubs, certainly. Most children go into hotels. Many children go into indoor ice skating clubs and rinks, and what about tennis clubs? Don't the children go into these places? Performing art centers, there must be children there, and there certainly are children on vessels. I just can't see this argument.

The people that oppose this bill are the people who are opposed to liquor in general. They don't want any liquor in any place, and I don't

think it is fair to discriminate against any particular business.

Ten percent of the business in a bowling lane has to be in food, just like a Class A restaurant has to have a certain percentage of business to operate. I see no problem in helping the people that need this. It is in an area set aside with tables and chairs with an adequate sanitary kitchen to operate from, so I just think it is a normal procedure. No matter how much we oppose others who drink, I don't think we should discriminate.

The SPEAKER: The Chair recognizes the gentleman from West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: I think the whole point here is—well, I would relate it to a football game, encroachment. Every once in a while you see the flag go down and a man has been two, three or four inches over the line and so they penalize him for that. The liquor industry today is encroaching; they don't take the apple all at once, they take it one bite at a time, but sooner or later they want the whole apple.

I feel you have got to draw the line somewhere. Mr. Brodeur stated it very well, there are very few places now where a family can go and not be subjected to all the peer pressures of "why don't you have a drink." I think this is a good place to stop it and I hope you support him in his motion.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker and Members of the House: I think Mr. Dillenback made a very good point. It is available everywhere, so let's have one place where it is not available.

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

Mrs. BEAULIEU: Mr. Speaker, I ask for the yeas and nays.

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 passage to be engrossed. All those in favor of this Bill being passed to be engrossed will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Andrews, Bonney, Bott, Brannigan, Carroll, D.P.; Carter, Cashman, Cote, Cox, Crouse, Diamond, Dillenback, Erwin, Gwadosky, Hall, Higgins, H.C.; Kelleher, Kiesman, Lehoux, MacEachern, Macomber, Masterton, McGowan, McSweeney, Michaud, Moholland, Murray, Nadeau, Paradis, E.J.; Paradis, P.E.; Paul, Perkins, Perry, Pouliot, Racine, Richard, Rotondi, Salsbury, Soule, Stevens, Studley, Swazey, Theriault, Tuttle, Walker, Weymouth, Willey, Zirkilton.

NAY—Allen, Armstrong, Baker, Beaulieu, Bell, Benoit, Bost, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Chonko, Clark, Conary, Connolly, Cooper, Crowley, Curtis, Daggett, Davis, Dexter, Drinkwater, Dudley, Foster, Greenlaw, Handy, Hickey, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Jalberty, Joseph, Joyce, Kelly, Ketover, Kilcoyne, LaPlante, Lebowitz, Lewis, Lisnik, Livesay, Locke, Martin, A.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McColister, McHenry, McPherson, Melendy, Mitchell, E.H.; Mitchell, J.; Murphy, Nelson, Norton, Parent, Pines, Randall, Reeves, J.W.; Reeves, P.; Ridley, Roberts, Roderick, Rolde, Scarpino, Seavey, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevenson, Stover, Strout, Tammara, Thompson, Vose, Webster, Wentworth, The Speaker.

ABSENT—Anderson, Brown, K.L.; Carroll, G.A.; Connors, Day, Gauvreau, Hayden, Hobbins, Kane, MacBride, Mahany, Manning, Martin, H.C.; Michael, Sherburne, Telow.

Yes, 49; No, 86; Absent, 16.

The SPEAKER: Forty-nine having voted in the affirmative and eighty-six having voted in the negative, with sixteen being absent, the bill fails of passage to be engrossed.

Sent up for concurrence.

Passed to Be Engrossed

Bill "An Act Pertaining to Local Public Hearings on Liquor License Applications" (S. P. 32) (L. D. 87)

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

Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

JOINT ORDER—Relative to the Joint Standing Committee on Business Legislation studying the economic and personal benefits for converting from Eastern Standard Time to other time zones (S. P. 195)

Tabled—February 9, 1983 (Till Later Today) by Representative Racine of Biddeford.

Pending—Passage in Concurrence.

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

Mrs. MITCHELL: Mr. Speaker, I move the indefinite postponement of this Study Order and would speak briefly to my motion.

The SPEAKER: The gentleman from Vassalboro, Mrs. Mitchell, moves the indefinite postponement of Senate Paper 195.

The gentleman may proceed.

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: I am not speaking to the merits of the study order, but rather I would like to explain to you the policy that this legislature adopted during the last session for an orderly way of dealing with study orders. I know members of the Business Legislation Committee, when they first saw this, were unsure as to whether or not this would be a top priority for them. Any committee would be unsure this early in the session.

The policy that we would like to follow is this. Toward the end of the session, every member of this body and of the Senate will be given a form on which they would list the study that they felt appropriate to be conducted by any joint standing committee of the legislature. That joint standing committee would then be asked to prioritize these studies, which ones they think they have adequate time to perform and in what order they think they would like to do them. At that point, the study requests would then go to the Legislative Council for funding. They would go to the council early enough so that if your study were rejected by the council, you would have an opportunity to come back to the full House or Senate as a court of appeals. That is the procedure that we will be following.

I have spoken to the sponsor of this study order and he certainly understands that. He will plan to reintroduce the study order later in the session, so it is for this reason that I ask you to vote to indefinitely postpone the study order.

Thereupon, the Joint Order was indefinitely postponed in non-concurrence and sent up for concurrence.

The Chair laid before the House the second item of Unfinished Business:

Bill, "An Act Providing for an Additional District Court Judge within the Judicial Division of Southern Androscoggin County" (H. P. 437) (L. D. 530)

Tabled—February 7, 1983 by Representative Mitchell of Vassalboro.

Pending—Passage to be Engrossed

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

Mr. CARRIER: Mr. Speaker, I move the indefinite postponement of this bill and all its

papers and I would like to say a few words on it.

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

The gentleman may proceed.

Mr. CARRIER: Mr. Speaker and Members of the House: I think by this time you have read the bill, which is L. D. 530, and I wish you would compare it to the original bill, L. D. 31. I ask that of you because of one thing—the intent of a bill is always there no matter how much you change it.

I want to say that all of us are here to pass laws to improve the lives of Maine citizens. With this in mind, I want to tell the new legislators that this is a bill that today will bring you into the world of reality in lawmaking. You will be told what has happened and the different devices and plots and approaches that you can use in order to get a bill into a certain position, favorable to whichever side you are on.

Some of you will spend much time and energy sponsoring bills, while some of us will be scrutinizing the bills presented, looking for the good and bad in them, and act accordingly. You will have tough decisions to make when you consider many bills, and this is one of the bills that you will have to think about this morning. Let your conscience be your guide and you will always feel good about your decision in promoting a good way of life for the people of Maine.

As legislators, with our combined efforts for better legislation and a devotion to our job, we will make this state a great place to live.

Today, I wish to talk to you about L. D. 530 and some of the reasons why I made a motion to indefinitely postpone the bill. This bill, as presented, has no value, it is not needed. I want to know where the need is, and the people who are in favor of this bill will give us a chance, an opportunity, to rebut whatever they say.

I say to you that we do not need another judge in Lewiston. Lewiston is not a town by itself or a nation by itself. They have to follow the rules and fall in where the other members of the judiciary fall in. They might have back cases in Lewiston, but it is the same way everywhere now with this easy appeal that you have to the courts.

We are talking about the district court because this is a district court judge that they want. I feel that they have one at present, they also have a retired justice there, they also have access, like any other court, as a judicial council to have Judge Devine, who is in charge of the district courts, to give them a judge-at-large to help them out. They also have access to administrative court judges, and I submit to you that this is the way that they should do it and we don't need to go to extra expense such as this presents.

In the first place, this bill, in my opinion, has started on the wrong foot somewhere. It was apparently sent to the wrong committee, as far as we feel on Judiciary, because, and giving credit to the members of the Appropriations Committee and their knowledge, we feel that this bill should have come up to our committee. On the other hand, it was one of those situations where the thing slipped through, either by inaction, or whatever it is, or by misinformation on the part of somebody, but in the other body they should have picked it up and sent it back to us.

The bill itself, as you will notice, and that is L. D. 530, what it does is a combination of things. The title itself is very misleading because it says "for District Court Judge." Well, it does more than that. They do ask for a district court judge, but also in line 27, it also says we are changing the rules within this House to not send these bills on the governor's appointments to the Judiciary Committee for review but to send it to any other committee in the State Legislature having jurisdiction over the judiciary. I think that this is wrong. I don't

know exactly just how broad it is or how narrow it is. I want to know how narrow it is. I don't want to get involved, whether I am on that committee or not, in bills getting sent to some different committee because they think they will have a better chance of passing in that committee. I think that is what it means. You have probably had an explanation of that, too, but this is not for the district court judge, as stated.

Also, on the inside of this bill it also says that the chief judge can appoint a deputy chief judge. That is giving them an awful lot of power, along with the money that goes with it. You want to look at it very carefully because these bills are extremely expensive and this one doesn't show that too much, but just notice that from 1983-84 and 1984-85 there is already a difference of \$22,000 written into the bill.

There is also something else for you to remember, and it can be disputed and everything else, actually when you put a new judge on there, it is worth it to him, and don't give me this stuff about nobody will take it. We have got plenty of them around, very qualified, better qualified than the last half a dozen judges that have been put on there, some of them are good but there are some real bad ones, but remember, when you put a new judge on, and you can dispute it all you want and I'll accept the challenges, a new judge, if you spread it over the course of seven years and give him a pension for 10 years, that new judge costs us \$80,000 a year. That is what the position is worth. So anybody who says that the lawyers won't leave their place to become a judge, this is ridiculous. You post an opening for judges and you will get all kinds of letters that somebody wants the job.

This particular bill, coming from Lewiston, I think they should do like the rest of them do—if it is the case that we have to put them in certain places, I suggest that we turn all the district judges to at-large judges so that they can intermingle, change them around and everything else and we won't have this problem.

These are a few of the comments that I have to make, and I suggest to you that in your good conscience you vote the way you want to, but I also suggest that you vote yes on the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker, I would like to pose a series of questions through the Chair to anyone who would care to answer. Did this bill originate within the judiciary, one? Two, was there consultation between the sponsors and the judiciary? Finally, does this judge have the blessing of the chief judge of the district court?

The SPEAKER: The gentleman from Brunswick, Mr. Livesay, has posed a series of questions through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: Before I make my remarks, I will attempt to answer the gentleman from Brunswick, Mr. Livesay.

The bill was put in by me at the request of the judiciary in my area, consisting District 8, by attorneys of both parties.

The location of the bill, viz-a-viz, the Appropriations, viz-a-viz the Judiciary Committee, is because in the opinion of those who assigned it to the Appropriations Committee, that is where it belonged. I went to no one who assigns bills to indicate to them where I wanted this bill to go.

The clerk of the Supreme and Superior Court did not take a position on this bill, but apparently Justice Devine did; he apparently favors the at-large program.

First, I would like to comment that I always enjoy my very dear friend from Westbrook, because he gets up and he picks up that steam. He starts out slow, then I can see it going up, and

that is when the real blow comes, when from below here (indicating the ears) it starts to get red, that is when he gets in second gear. Of course, being a neighbor from Lewiston, as a matter of fact, I started in a two-seater at St. Peter's school with his brother, Father Joseph, a very dear friend of mine, and we had a very fine spirit of compromise in the first grade, as I do here with my good friend from Westbrook, and the compromise was dead. We were suppose to do exactly what he wanted to do; the same thing goes here.

I took the emergency off this measure myself when I presented it to the committee because of a very simple reason, two reasons—the first reason is that I did not want to take advantage of the fact that I was a member of the Appropriations Committee, even though the bill rightfully belonged before that committee. It did not have anything to do with the policy, it just added a new judge to a district court at home. Then I stated to the committee, in executive session, not a lobby job, far from it, as a matter of fact, I said that just because this bill might fly does not mean to say that I would go for any bill with a price tag on it to go to the Appropriations Table. I also stated that if the money was not available for this bill, like I would do with any other money bill, I stated that I would be the person to move for its demise, for its indefinite postponement when the so-called pie is cut up by the Appropriations Committee and then sent on to the leadership.

The changes on L. D. 31 to L. D. 530 were minimal, outside of the emergency being taken off.

My good friend from Westbrook comments about "let it go in Lewiston the way it is in the rest of the state." The fact of the matter is that Portland has two resident judges, Bangor has two resident judges, and we would like to have a resident judge. The present judge that we have at home, Judge Damon Scales of Auburn, is a very fine man, a good judge, a member of the friendly opposition, but fair.

He works from eight o'clock in the morning until six, seven, eight o'clock at night, at least five days a week, and very often you see him strutting across the street to get to his office on Saturday morning. He is extremely conscientious, he is very much overworked.

As far as the other available person we might have, an active retired judge, another fine judge, another member of the friendly opposition, who has been very ill, who is very ill, I think he is presently away, he goes in very seldom, he takes no criminal cases, he takes nothing of a controversial nature, it is mainly paperwork, signing papers is about all that he does, he does that very often. As I have told many people and I have told him, he has paid his dues and he has paid them well.

As far as the administrative court is concerned, the administrative court is held by one man, a bill that I put in many years ago for the late judge and it has nothing to do with the district court.

I am no stranger to district courts. After watching for a number of years trial justices, believe it or not, holding court in a barn sometimes, I well remember going with a friendly lawyer of mine — he said, I have a case in this small town and certainly, Mr. Speaker, with no deference to the county, this happened to be in your county where I was enjoying myself on a very pleasant visit with a very friendly attorney, who was the first Speaker of the House when I first landed here 1945 — we turned into his driveway and I asked where we were going and he said we were going to court. The fine gentleman who was trial justice, as they called him, was in his barn, it was a minor thing anyway, and so the case was resolved there and disposed of there in a few minutes and that was the end of it.

I thought of this system and I put in a bill that we would have a district court in my county, Androscoggin County. The powers that be came to me, and the idea was thought of to

put in an Order to make a study of the court program where it involved local, municipal courts in cities and trial justices in small towns to study this problem, to the effect, to the end that a bill was reported out that we should have district courts in Maine. Consequently, the birth of the district court. I think that it has worked out well. In some areas I have been somewhat chagrined. I know of a member of the district court who is retired because he was at large, he lived in Oxford County and he was stationed for nearly two years in Washington County. He got home, after leaving Saturday morning, late Saturday afternoon and he was even too tired very often (he was not well anyway) to take his wife out on Saturday evening, managed church on Sunday morning, ate and drove right back to Washington County. If we had another at-large judge in Androscoggin County District Court, I submit to you people the judge-at-large would just wind up elsewhere and we would be right back in the same position we are now, coupled with the fact that the cost of having at-large courts would be much higher than this present bill is.

I did not put this bill by myself. I got a call from the President of the Androscoggin Bar Association, who told me that he would like, in the name of the lawyers and the people who wanted to be serviced in our courts, to put this bill in. I put the bill in, I had three cosponsors, Senator Trafton who is Chairman of the Judiciary Committee; Representative Callahan of Mechanic Falls; Representative Gauvreau of Lewiston, a colleague of mine, as another co-sponsor.

It is not my dream, we need this bill, and any member of the Appropriations Committee will rise and tell you that I lobbied them in no way, shape or manner. I told them my position. The bill came out of committee, 13 to 0 "ought to pass" and there it stays.

I hope that the motion of the gentleman, my dear friend, does not prevail, so I can make the motion that the bill go on its way.

THE SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

MR. LIVESAY: Mr. Speaker, Ladies and Gentlemen of the House: I am not quite sure whether my three questions were answered, so I will attempt to answer them myself. The first question I asked was whether or not this bill originated within the judiciary, and the answer to that question is that it did not.

The second question I asked was whether or not there had been any consultation between the sponsors of this bill and the judiciary, and to my knowledge there has been little or no such consultation.

The third question that I asked was whether or not this bill enjoyed the blessings of the Chief Judge of the District Court and, in fact, this bill does not enjoy his blessings.

I sympathize with the problem that exists in Lewiston but, believe me, the problem that exists in Lewiston is no more nor less than that that exists in many areas within this state, and it seems to me that in a time of limited resources, we had best follow the advice of our various departments before we go about creating new positions.

The situation that exists in Lewiston right now is one that can be solved with the wise utilization of our at-large district court judges. In the recent past, we are short, "we" meaning the Maine District Court judiciary, are short one at-large judge, and that shortage meant that these seats that had something of an overload in terms of cases had a backlog slowly but surely building up. That additional at-large judge has now been appointed and I am sure that he will be utilized in such a way that the bulk of the problem that exists in Lewiston and elsewhere around the state can be successfully taken care of.

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

MR. JALBERT: Mr. Speaker, Ladies and Gen-

tlemen of the House: No bill that I present, and I don't present very many bills, I don't believe in it, as a matter of fact, I withdrew about half a dozen that I had, but nothing is so important to me that I am going to be called a liar. I suggest to the gentleman from Brunswick that he take a little wax out of ears.

I will explain it to him again. The first question: Did I consult with the Judiciary? I got a call from the Honorable Thomas Delehanty, who was for many years at the District Court for Maine. I got a call from a present judge, I got a call from about 20 lawyers on each side of the aisle and the Appropriations Committee has in its possession at least 40 letters from attorneys — are those people part of the Judiciary or are they not? That is the answer to the first question. They consulted with me. To answer the second question, I consulted with them. As of yesterday afternoon, I consulted with them. I called one judge, one attorney, from Mr. Livesay's hometown in Brunswick. It should be remembered that even when we had only one judge, we did some work and our judge traveled, when the caseload wasn't as bad as it is now, to Brunswick.

The third question — as far as Judge Devine is concerned, why didn't he report to the judge-at-large the caseload? Just one judge-at-large being appointed certainly is not going to service 16 counties or 20 some odd courts in Androscoggin County, so when I am asked a question, I try to answer it honestly, and I don't like to be told that I didn't answer it when I actually did. If the gentleman from Brunswick wants a thesis on the subject, I will take a little time off next summer while I am sunning myself and write him one.

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

MR. HOBBS: Mr. Speaker, Men and Women of the House: First of all, let me commend those legislators who, such as Mr. Jalbert, have taken the time to talk to the district court judge or to look into and evaluate our district court system. I think it is incumbent upon all of us who serve in elected positions to look at our judiciary, our third branch of government.

We have a situation in Maine where we have an overcrowding of our dockets. I think we have a serious crisis on our hands because the people's court, which is the district court, which is located in 19 different areas, which has 21 different district court judges, finds itself overloaded.

The district court, last year, dealt with over 200,000 cases. These cases range from your typical traffic and speeding violations to your small claims actions, which many small businesses and private individuals initiate, domestic violence cases, which the Department of Human Service investigates, cases involving abuse of our elderly, civil matters up to \$20,000, and that is dealing with different subjects up to \$20,000, our domestic relation cases, our divorce cases; so, as you can see, the average person's life is affected by the district court.

I don't look at this bill as one that is going to cost money in the long run; let me explain why. During my brief career as a lawyer, the last four years, I have experienced first hand the overcrowded condition of our district court system. This overcrowded condition not only costs individuals who have attorneys and who have to pay attorneys for their time, but it also costs all of us as taxpayers. Local communities are affected. Our counties are affected and our state government is affected. Every time a case is continued because of the overcrowding of the docket, it costs the local community money if that case is initiated by a local police department, because every police officer who attends that court session is paid for their time. The same is true with our county sheriffs and our county deputy sheriffs and the same is true for our state police.

Every time we have a case which is con-

tinued because of an overcrowding of our court system, our Department of Human Services child protective workers have to work overtime, it requires more personnel. The same is true for other areas involving state government. The same is true for the Secretary of State's Office, directly or indirectly, because of traffic infractions and violations.

I commend the gentleman from Lewiston for attempting to listen to a concern that has been expressed by the judiciary in his area and also by those members of the Bar in his area. I think all of us if we went and talked with our district court judges in our different 19 locations and we talked to members of the Bar in the areas would tell you the same thing that Representative Jalbert is telling you, and that is, we have a serious problem.

Maine has one of the very small judiciaries, considering the number of caseloads we have and the size of population. We only have 21 district court judges dealing, as I mentioned before, with around 200,000 cases. Other states have a vast of judiciary and our judiciary I think, over all, is of extreme quality and works very hard.

I would hope that all of us would look very closely this session at other areas of the state, because I think if you did evaluate other areas of the state, you would find that we don't need less judges, we need more judges who are going to expedite those who break the laws and punish those who break the laws, but also take care of those innocent individuals and make sure that justice prevails for those people also.

I urge you to oppose the pending motion.

THE SPEAKER: The Chair recognizes the gentleman from Mechanic Falls, Mr. Callahan.

MR. CALLAHAN: Mr. Speaker, Ladies and Gentlemen of the House: I was asked to cosponsor this bill and before I did, I did a little checking myself. I called a secretary of Judge Scales office, I called the district clerk, I called the docket clerk and I asked them the same question: I said, if no other cases came in today, how long would it take for you people to get caught up? They all answered between August and September. This isn't really fair to the man who wants his day in court, who has his witnesses and the morning case lingers over to afternoon and finally they say, well, we will have to postpone your case, but it isn't tomorrow, it may be a month or two months down the line. This is also very unfair if there is a juvenile in the case, where it might be a case of child abuse, the child would still be living with his parents.

I feel certain that there is a need for this judge. The judge-at-large there now is very much incapacitated. He does very little work. He may sign his name to uncontested cases and I definitely would not have cosponsored this bill, as conservative as I am, if I didn't think it wasn't really necessary.

Mr. Livesay of Brunswick was granted permission to speak a third time.

MR. LIVESAY: Mr. Speaker, Members of the House: I think Representative Hobbins illustrated the difficulties that we have within the district court system in the state quite well, but I think he also, maybe inadvertently, put his finger on the problem that I have with this particular bill, and that is that we do have limited resources, we do have overcrowding in our district courts. When we create our additional judgeships, we should do them in the most intelligent fashion possible, and people that can best make that decision are those people that have a view of the large picture and those people that are sitting administering our district courts and our court systems at-large suggest that a wide utilization of our judgeships would not be an additional judge in Androscoggin County but rather an additional at-large judge. It is as simple as that.

If we are going to handle these backlog problems that exist everywhere around the state, then we had best heed those people that are

looking at the state as a whole and not at one particular part of the state where admittedly there is a problem, but remember, there is a problem everywhere in this state. I think we would do well if we heed the wishes of our administrators and not just the interests of certain local areas.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Having an opportunity to sit on the Appropriations Committee, I might at this moment just have an advantage over some of the rest of you in here in regards to the big picture, as Mr. Livesay has described here this morning.

I was somewhat skeptical of this bill myself prior to the hearing that afternoon, but after listening to Mr. Delehanty, who was former DA of Androscoggin County, listening to Ms. Mills, who is present district attorney for that area, after listening to the head of the Bar Association for Androscoggin County, after listening to Senator Trafton, Chairman of the Judiciary Committee, and then listening to Mr. Baggett, who spoke in behalf of the court, there seemed to be a great deal in regard to problems in Androscoggin County. For example, as Mr. Jalbert or rather as Mr. Callahan pointed out, when he asked his question on the backlog of case which would carry them clean into August, the court administrator, the people that handle the dispersing of judges across the state, as Mr. Livesay says, if we are going to follow his arguments, didn't know there was a problem in Androscoggin County. Can you imagine that? He absolutely admitted that he had no idea that there was a problem but there was repeated letters from lawyers in that particular county to the court administrative office telling just what the problem is.

There are other areas that have problems in the state, there is no question about it. York County is one, for example. Cumberland County is another one, for example.

We on the Appropriations Committee that voted this out 13 to 1 discussed amongst ourselves what we should do with this bill and the ultimate choice was that it would go to the Appropriations Committee because we know that you people in Judiciary know what the problems are, although none of you were at the hearing that afternoon other than Senator Trafton. We know that you people know that there is a serious financial problem in the judicial court, but none of you were at the Appropriations Committee the afternoon that Mr. Baggett came in with their million dollar problem. I know that you know, you people on Judiciary, that there is a problem but none of you were around, so don't be shocked if this committee, which I happen to sit on and happens to have this bill, is up here arguing for this particular judgeship in Androscoggin County.

We all know that the Judiciary has another problem in the current services budget, but not one of you lawyers that are on Judiciary has approached any of us to make us aware of the problems, so I don't want you to feel that you are left alone but sometimes I wonder where you are when it comes to the judiciary.

You all have good judgment when it comes to approving the judges on the courts. You can sit here and complain about what the judges are like but you vote for them when they come up most of the time, and I have to appreciate your knowledge on that for the majority of you.

The problem that Mr. Jalbert and Mr. Callahan have in their county is not unique, so I wouldn't be a bit surprised before the session is over that you are going to see additional legislation. Whether it goes to the Judiciary Committee or the Appropriations Committee or State Government or Health and Institutional Services, it will all end up on the Appropriations Table where you all have a part in what is passed and what is not passed in this House. They have a bad problem in Androscoggin

County; there are other problems elsewhere.

Mr. Livesay said that the judicial court hasn't prepared itself or was asked to participate. Let me tell you something — there are a lot of bills that come in here in regards to the judiciary where they are not consulted and a lot of times they are consulted and sometimes they are consulted but they want to step into a closed confessional box and have no one know what is going on other than the one or two people that might be speaking on an issue of the day. That is the way the judiciary operates, they like to operate away from government and that is the way it should be for the most part, but I would urge you not to support Mr. Carrier's motion this morning because this is probably just the tip of the iceberg of what the problem is with the judiciary overall.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would rise to reiterate the comments made by the gentleman from Lewiston, Mr. Jalbert, and the gentleman from Bangor, Mr. Kelleher. I think they have presented an excellent case from the Appropriations Committee's standpoint about the issue that we are dealing with today.

I would just like to point out quickly and reiterate again that Lewiston is, indeed, the second largest district court in the state, therefore the second busiest court in the state.

Bangor, as an example, the city that Mr. Kelleher represents, currently has two full-time judges as opposed to Androscoggin, which Mr. Callahan pointed out, currently has one full-time judge and one part-time judge and that part-time judge, known as active retired, does indeed deal with only uncontested cases.

The gentleman from Saco, Mr. Hobbins, pointed out that in the long run this bill will save money, and I absolutely agree with him. Not only is speedy justice necessary and right but it is less expensive; therefore, I urge you in the strongest possible terms to approve this bill today and let it go on its way.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Saco, Mr. Hobbins.

If the district court system is in this disarray, what about the superior court system where it took me five years to get a settlement out of an insurance company?

I want to address the court system as a whole, not on a piece-meal basis. I want to get the superior court moving so these people who have civil cases can have their day in court before their witnesses die, their doctors die and they are waiting for them to die.

The SPEAKER: The gentleman from Limerick, Mr. Carroll, has posed a question through the Chair to the gentleman from Saco, Mr. Hobbins, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I wish I could answer yes or no but I can't. The superior court needs to be evaluated also, Representative Carroll. This is not only a problem here in Maine, it is a problem nationally. Everytime we as a legislature enact another law, then you find that particular law can be litigated into court. Everytime we add a new statute involving whatever, you are also loading up the court system and, unfortunately, the court system has not kept pace with the rest of government in trying to address some of those problems that you state. We have talked about your particular case and that was a very unfortunate situation, but I am sure that it has been the case in many cases around the state.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I have asked to address the court system and not address just the dis-

trict court system in a piecemeal fashion, if I may speak on the subject matter.

The SPEAKER: The gentleman may not at this time.

Mr. CARROLL: If not, then my vote will be no on this judge.

Mr. Callahan of Mechanic Falls moved the previous question and requested the yeas and nays on the main question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one third of the members present and voting. Those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one third of the members present having voted for the previous question, the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

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

Mr. CARRIER: Mr. Speaker, Members of the House: I dislike the procedure that is being used to shut off anybody from speaking. I would have expected that motion from other people but I sure did not expect it from Mr. Callahan.

The SPEAKER: The gentleman will please refrain. Simply deal as to why the question should not be put now.

Mr. CARRIER: Yes, the question should not be put now because I want to speak on this bill. I only had one chance to speak and I am entitled to at least twice, right? Since I cannot speak on the issue, I would simply say to you people who have any compassion, you might be in the same situation sometime, and you should not vote for the main question being put now so we can discuss this bill whether you are for or against it.

There have been a lot of questions brought up and the fact that it has been brought up constitutes an issue which you people should know about some of the inter-doings of what is going on in Lewiston. If you are interested in that and if you are interested in a good judicial systems you should vote against this particular motion.

The SPEAKER: The Chair will order a vote. If you are in favor of the main question being put now, you will vote yes; those opposed will vote no.

A vote of the House was taken.

20 having voted in the affirmative and 96 in the negative, the the main question was not ordered.

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

Mr. CARRIER: Mr. Speaker, Members of the House: I thank you for this opportunity to speak once again only to clarify some of the statements that have been made.

First, last week or so, the Appropriations Committee, probably rightfully so, gave an extra million or so to the judicial system. It was mentioned but I don't think it was meant in the way it was said, that this was part of the judicial system that would pay for this judge. This is not the way it is, this is a separate bill altogether.

As for voting for judges, I won't know what was meant about voting for judges but let's put on the record nice and clear that the judges' nominations that have been coming in front of us in the Judiciary Committee have been promoted by the people downstairs whether they are good or not. I say "good or not" because in the last two weeks you have been exposed to some bad writing about some judges, I was part of it, which we renominated, which we voted in, because we didn't have the information on them. You have to believe that and

trust us, but the fact is that if we did have the information on them, never would the judge from Westbrook have been nominated there.

I think we do our job up there, and I also can say that those who said that we vote for the judges, I am not one of them that voted for three or four of them that came up there and manytime I stood alone. I can tell you today that I still would not vote for judges that are presented to us as former alcoholics or as epileptics or any other group that does not have the judicial background. This is the kind of judges that have been coming from downstairs. You give us good judges and no matter what committee votes on it, you are going to have a better judicial system.

I want to extend the courtesy — I was waiting for the sponsor of the bill to say something and he did, but as a matter of courtesy, Mr. Jalbert said how great my brother was or is and I agree with him, he is better than I am, but the whole family tries to make it a better place to live and try to make it good for all the people.

On the other hand, there are some suggestions here from the Chairman of our Judicial Committee, okay? He said that the courts were overloaded, district courts were overloaded. Well, I assume that he read what he was supposed to read — there is a book right here, ladies and gentlemen, and it is available to any of you. Read this administrative court book, there is quite a lot of reading in there — if you don't know anything about the courts or you want to broaden your knowledge, that is where it is. In there it says that the courts, last year, the chairman stated they had 215,000 cases in the district courts in Maine and this apparently is correct, I don't challenge that, but I do challenge that the courts are overloaded, because in this book and in any judicial books that are up to date, if you take the total of 215,000 cases and divide it by 21 judges in the district court, that means that they handle about 1,000 cases apiece. This book, along with the other judicial reference books that are up to date, suggests that no district court judge should handle more than 1,100 a year, so actually our judges are not overworked. They might be overburdened because the cases come in groups or something like that but basically what has been said is not true.

You will not save money by overcrowding courts, by having a new judge and all that stuff. The cost is the same and if you want to save money, why don't we do something to stop the appeals to the higher courts? How many appeals do we have now or have had in the past year or two, appeals by plaintiffs against the judges' rulings and the Maine Supreme Judicial Court of Maine has come out in favor of the plaintiff, not in favor of the judges. Let's get some good judges over there, the ones that know the law and know how to give the proper instructions and do away with these appeals. This is where we should start.

If we want to get some good judges now — we have one up in Farmington, one of the better judges in the state, and you ask the question, why is it that he hasn't been reappointed? It came out in the paper that it's because he is too tough on juveniles. Well, he is not too tough on juveniles. Maybe a year or two ago he was, I don't say that he was, but he was tougher than most judges, but today the proof is that up there in Farmington court you have very few juvenile cases, where at times you had hundreds and hundreds. Why hasn't he been reappointed again? That is because right downstairs they don't want him down there. You keep your eyes open and keep yourself posted, this is what is going on around here.

We will talk about the Lewiston court. The emergency was taken off and very realistically you take any kind of answer for it; I think it was taken off because they knew they couldn't pass it with the emergency.

Where do we need this court? I have talked with different ones, with different judges, they

say they don't need it. Now, you might have 50 letters from lawyers, I really don't know.

There was a subject brought up here. At no time, ladies and gentlemen, to my knowledge since I have been here have I ever seen a bill for the judiciary go to the Appropriations Committee that was refused. We have killed bills in here and they were put back in there.

But what bothers me about Lewiston is the fact that there is there, and if none of you have noticed it, there is a situation of nepotism. There have judges' relatives, they have all been related to each for the last 30 or 40 years there, and, my friends, you cannot have the best of judges when it is that way. If this passes, if you want to know who the new judge will be, just see me and I'll tell you.

For many reasons, we don't need this judge, so I hope you vote for the indefinite postponement of this bill and I would ask for a roll call.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I stand and debate my good friend from Westbrook, I don't believe I have ever done that since I have been here. However, on this issue I think I have to.

From all of the discussion that we have heard here this morning, it should be obvious to all of you that we indeed have a problem in the judicial system, we have a tremendous problem.

My good friend suggested that no judge should have more than 1100 cases per year; I think he meant to say 11,000 cases per year, because if you divide 21 into 215,000, it's about 10,000 cases.

I have a fact sheet here before me that lists the amount of cases that went through the Lewiston court, and they number over 17,000 for last year. That is a tremendous load.

One of the problems is apparently due to what transpired when the new judicial code was passed. Cases dealing with child protection and child abuse cases now take a priority in the system, they have to be dealt with first. Consequently, the end result is that all the other cases take a back seat.

Now, we talk about saving money in the long run by passage of this bill. I think one of the major concerns that we should have is dispensing justice before we talk about saving money in the judicial system. If you are unfortunate enough to be tangled up in one of the judicial cases, I think you will understand what I am talking about. I have been fortunate, I have not had to experience that, but I have heard of other people who have been in that position and I think the dispensation of justice as quickly as possible should be uppermost in our goals, and I would urge you to vote against the motion to indefinitely postpone and let this bill go to the Appropriations Table and take its chances with the other problems that we have in this state.

The SPEAKER: The Chair recognizes the gentleman from Stoughton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think Representative Jalbert was a hundred percent right when he said when Mr. Carrier speaks he generates a lot of steam, and the steam has reached down here.

I was one of the few people that attended this hearing in front of the Appropriations Committee and I did come away with a lot of concerns and I still have them. Number one, I was wondering why this case wasn't heard by the Judiciary Committee, and I am still wondering why, because I think it is a very important case and I think the whole system in the State of Maine needs to be looked at.

I also wondered why in the testimony that day the Chief Justice did not approve—in fact, they said they opposed this addition.

The third thing that I am concerned with is the thing that Representative Carrier said, that

we may be establishing a precedent here, a precedent that you will get rewarded for by being inefficient. I know they have problems in southern Androscoggin County, but maybe this is a bigger problem and it should be solved in a different way.

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

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

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I feel that I have earned a few words on this particular bill. Before I give my few facts regarding Representative Jalbert's bill, that should have been entitled "A Judge Without Portfolio."

The facts have certainly been distorted here today. Yes, truly, we did get our big meal of political pabulum. Yes, even the much respected Representative Carter rose in his place to question the figures used by my good and dear friend, J. Robert Carrier.

The judiciary group, including the Chief Justice, a Superior Court Judge, the Court Administrator all gathered in our committee room last Wednesday for a period of indoctrination. The figures used by them are the figures that Representative J. Robert Carrier gave to you today.

The load for a judge nationwide is recommended at 1,000 cases to hear in a year. In the district court, it is averaging 1,100 per year. Those big numbers that we used, 215,000 cases, they scared you; they used to scare me. What do you get the 215,000 figure from? Somebody gets a ticket coming down the Pike, they call their lawyer, he sends in the \$35, that is a case. Very few of the 215,000 cases ever get in the court room, they only get to the ticket office.

Yes, this House should pause a moment here today and commend our Representative J. Robert Carrier. I don't always agree with him, but he is right on the button today. He spotted this two weeks ago. He was the only one of our committee that wanted to throw it out on the table and talk about it. Yes, he is a man of high respect, he is a man loved by all. He could not do a disservice or tell a non-truth to any member of this body. Believe me, he is right on the button this morning.

I asked the Court Administrator last week, how about this bill, this 530, that is going to make another judge over in Androscoggin County? He said, "You know, John, we don't know where it really came from." Well, I would hate to see this body here get into a deal where some caucus back in my home town would tell me to propose a judge for my district. I think we are taking that big step back.

I am going to vote today for the indefinite postponement of this bill, I am going to vote that way because I believe it and I am proud to cast my vote on the side of my friend and your friend, Representative J. Robert Carrier.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Just a point of clarification. I have the figures before me that deal with the Lewiston District Court, and the reference has been made that the bulk of these 17,000 cases are traffic cases. Let me read to you the actual figure of traffic cases filed in 1982—civil violations and traffic infractions, 5,411. I would urge you to vote against the motion to indefinitely postpone.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that

this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Benoit, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Carrier, Carroll, G.A.; Clark, Conary, Conners, Crowley, Curtis, Davis, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Joseph, Joyce, Kiesman, Lebowitz, Livesay, MacEachern, Masterman, Maybury, McGowan, McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Perry, Pines, Racine, Randall, Reeves, J.W.; Ridley, Roderick, Salisbury, Scarpino, Seavey, Small, Smith, C.B.; Soucy, Soule, Sproul, Stevenson, Stover, Studley, Swazey, Tammaro, Thompson, Vose, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Andrews, Armstrong, Baker, Beaulieu, Bell, Bost, Brannigan, Brodeur, Callahan, Carroll, D.P.; Carter, Cashman, Chonko, Connolly, Cooper, Cote, Cox, Crouse, Daggett, Diamond, Erwin, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lewis, Lisnik, Locke, Macomber, Martin, A.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; Mayo, McCollister, Melendy, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Paul, Pouliot, Reeves, P.; Richard, Roberts, Rolde, Rotondi, Smith, C.W.; Stevens, Strout, Theriault, Tuttle, The Speaker.

ABSENT—Anderson, Brown, K.L.; Day, Gauvreau, Kane, MacBride, Mahany, Manning, Martin, H.C.; Michael, Sherburne, Telow.

Yes, 72; No, 67; Absent, 12.

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

Sent up for concurrence.

(Off Record Remarks)

The Chair laid before the House the following matter:

Bill, "An Act to Clarify the Law Regarding Repayment of State Capitation Payment for Postgraduate Education in Medicine" (H. P. 594) which was tabled and later today assigned pending reference. (Committee on Education was suggested)

On motion of Mr. Carter of Winslow, the Bill was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

(Off Record Remarks)

On motion of Mr. Carroll of Limerick,
Adjourned until eight-thirty tomorrow morning.