

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Eleventh Legislature

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

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HOUSE

Friday, May 27, 1983

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

Prayer by Senator Michael Carpenter of Houlton.

The journal of yesterday was read and approved.

**Papers from the Senate
Reports of Committees
Unanimous Leave to Withdraw**

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Require Notification to Abutting Landowners upon Correction or Alteration of a Prior Survey" (S. P. 42) (L. D. 100)

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

Non-Concurrent Matter

Bill "An Act to Establish Standards of Accessibility for Handicapped Persons in Public Housing and Places of Public Accommodation" (H. P. 1261) (L. D. 1671) which was passed to be engrossed in the House on May 24, 1983.

Came from the Senate, passed to be engrossed as amended by Senate Amendment "A" (S-153) in non-concurrence.

In the House: On motion of Mr. Andrews of Portland, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Require Dismissal of State Employees Responsible for Abuse or Neglect of Patients, Clients or Students" (Emergency) (H. P. 1286) (L. D. 1704) which was referred to the Committee on Judiciary in the House on May 26, 1983.

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

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

Non-Concurrent Matter

Bill "An Act to Establish Funding for Programs of Preventive Intervention and Family Support" (H. P. 532) (L. D. 685) on which the Minority "Ought to Pass" in New Draft under New Title Bill "An Act to Appropriate Moneys for Programs of Preventive Intervention and Family Support" (H. P. 1269) (L. D. 1683) Report of the Committee on Health and Institutional Services was read and accepted and the New Draft passed to be engrossed in the House on May 25, 1983.

Came from the Senate with the Majority "Ought to Pass" in New Draft (H. P. 1268) (L. D. 1682) Report of the Committee on Health and Institutional Services read and accepted and the New Draft passed to be engrossed in non-concurrence.

In the House:

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

Mrs. MITCHELL: Mr. Speaker, I move that we recede and concur and request the yeas and nays.

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

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to ask you to oppose the gentlelady's motion to recede and concur. I am not going to be surprised today by the vote on this issue, but the issue remains the same with me, the issue is whether we should have dedicated accounts for this purpose in this bill, or whether we shouldn't.

I would ask you to vote against the motion to recede and concur so that we can adhere.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to vote with the motion to recede and concur. My

good friend from Farmington, Representative Webster, has told you this is a dedicated account. When I signed out the jacket, I didn't look at it as a dedicated account, I looked at it more like an investment in the future. What we are doing is, we are putting money aside for the children who may have serious problems. It seems to me that it would be a lot better for us to invest our money in an account that we can put into the future of this state to keep the kids in this state and help them than it is to send them out of state at a price tag of \$20,000 to \$30,000.

I would vote for the motion and would urge you to do the same.

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 gentlewoman from Vassalboro, Mrs. Mitchell, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hickey, Higgins, H.C.; Jacques, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, H.C.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Pouliot, Richard, Ridley, Roberts, Stevens, Swazey, Tammara, Theriault, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Conary, Connors, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; McHenry, McPherson, Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Perry, Pines, Randall, Reeves, J.W.; Roderick, Salisbury, Scarpino, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Strout, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Brown, K.L.; Curtis, Dudley, Hobbs, Jalbert, Kane, Mahany, Melendy, Murphy, E.M.; Paul, Racine, Reeves, P.; Rolde, Rotondi, Small, Soucy, Soule, Thompson, Tuttle, Vose.

Yes, 72; No, 59; Absent, 20.

The SPEAKER: Seventy-two having voted in the affirmative and fifty-nine in the negative, with twenty being absent, the motion does prevail.

Messages and Documents

The following Communication: (S. P. 591)

111th Maine Legislature

May 26, 1983

Honorable Ronald Usher
Honorable Robert MacEachern
Chairmen

Joint Standing Committee on
Fisheries and Wildlife

State House
Augusta, Maine 04333

Dear Chairmen Usher and MacEachern:

Please be advised that Governor Joseph E. Brennan today nominated Francis D. Dunn of Patten for reappointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12 MRSA Section 7033, this

nomination will require review by the Joint Standing Committee on Fisheries and Wildlife and confirmation by the Senate.

Sincerely,

S/GERARD P. CONLEY

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

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

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

**House Reports of Committees
Ought to Pass in New Draft**

Representative Higgins from the Committee on Taxation on Bill "An Act Concerning the Rate of Return on Investment Factor under the Railroad Excise Tax" (H. P. 230) (L. D. 278) reporting "Ought to Pass" in New Draft (H. P. 1288) (L. D. 1708)

Report was read and accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

**Divided Report
Later Today Assigned**

Six Members of the Committee on Election Laws on Bill "An Act to Make Voting Places more Accessible to the Elderly and Handicapped" (H. P. 728) (L. D. 937) report in Report "A" that the same "Ought Not to Pass"

Report was signed by the following members:

Senators:

PEARSON of Penobscot

USHER of Cumberland

— of the Senate.

Representatives:

ROBERTS of Buxton

WENTWORTH of Wells

SHERBURNE of Dexter

MICHAUD of East Millinocket

— of the House.

Five Members of the same Committee on the same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-298)

Report was signed by the following members:

Representatives:

NADEAU of Lewiston

PARADIS of Augusta

MARTIN of Brunswick

STEVENSON of Unity

CAHILL of Woolwich

— of the House.

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-299)

Representative:

HANDY of Lewiston

— of the House.

Reports were read.

On motion of Mr. Nadeau of Lewiston, tabled pending acceptance of any Report and later today assigned.

**Consent Calendar
First Day**

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

(S. P. 316) (L. D. 952) Bill "An Act Appropriating Funds for Independent Living Services for the Disabled" — Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-150)

No objections being noted, under suspension of the rules the above item was given Consent Calendar, Second Day, notification, the Senate Paper was passed to be engrossed as amended in concurrence.

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

Emergency Measure Failed of Enactment

An Act Making Adjusted Allocations from the Highway Fund for the Fiscal Year Ending June 30, 1983 (H. P. 810) (L. D. 1050)

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: This bill is the one we heard the other day in which we attempted to place an amendment on that, in my opinion, made the Department of Transportation's funding allocation the same as every other allocation that we deal with here in state government. I think it is unfortunate that that amendment was not adopted.

I feel very strongly that this legislature has a responsibility to the people to review and vote for sums of money that have been collected through, in this case, the gas tax and other methods of funding, fees, drivers' licenses and that type of thing. I stand before you today as one individual who feels strongly about that and I intend to vote against this bill for that reason.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: This is the supplemental budget for 1983. This is the block grant money that we have to send to the towns, and this is due to the towns, the first installment, on June 1. I think we have had enough game playing with this piece of legislation. I hope you all vote for it, it is necessary, it is the first supplemental budget we have had to have due in our line budgeting process which we have incorporated down at the Department of Transportation. I feel we have been prudent, we have taken the necessary measures and I urge you all to vote for its passage.

The SPEAKER: The Chair will order a vote. The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

79 having voted in the affirmative and 54 having voted in the negative, the motion did not prevail.

By unanimous consent, ordered sent forthwith to the Senate.

Passed to Be Enacted Emergency Measures

An Act to Permit Municipalities to Regulate Shellfish Harvesting Within State Park Lands (H. P. 1037) (L. D. 1362) (S. "A" S-142 to C. "A" H-246)

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. 124 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.

An Act to Incorporate Bills Passed in the Second Regular Session of the 110th Legislature in Title 20-A (H. P. 1145) (L. D. 1517) (C. "A" H-281)

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. 121 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.

Finally Passed Emergency Measure

RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law (S. P. 580) (L. D. 1676)

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

Passed to Be Enacted

An Act to Raise Per Diem Compensation for Active Retired Justices and Judges (S. P. 153) (L. D. 555) (C. "A" S-141)

An Act to Create a Fund to Encourage Local Soil and Water Conservation Projects (S. P. 197) (L. D. 619) (C. "A" S-140)

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.

An Act to Permit the Location of Manufactured Housing on Individual House Lots (S. P. 475) (L. D. 1441) (S. "A" S-144; C. "A" S-138)

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

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

Mr. WEBSTER: Mr. Speaker, I would like to pose a question through the Chair. Could somebody on the committee explain to me what this bill does?

The SPEAKER: The gentleman from Farmington, Mr. Webster, has posed a question through the Chair to anyone who may care to answer.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This allows manufactured housing, not the tin cans, the manufactured housing, to be located on individual lots in your community and at the discretion of your municipal officials.

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

Mr. WEBSTER: Mr. Speaker, I would like to pose another question through the Chair. Mr. McHenry, could you tell me if my town or somebody's individual town had an ordinance against permitting manufactured housing in that town, would this law override that?

The SPEAKER: The gentleman from Farmington, Mr. Webster, has posed an additional question through the Chair to the gentleman from Madawaska, Mr. McHenry, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This L.D. would not prohibit it. It is the intention of the Governor and the Local and County Government Committee and it is the intention of everyone to allow modular homes on individual lots. That is the intent of the bill.

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

Mr. CASHMAN: Mr. Speaker, Men and Women of the House: As I read this bill, it doesn't seem to me that it leaves much discretion to the local community in terms of whether or not they will allow it. Mr. Webster's question was, if municipalities have an ordinance to prohibit manufactured housing on individual lots, if this law would override that, and I think it does, what it says is that municipalities will allow manufactured housing on "a wide variety of locations in their municipality." It mandates that municipalities and townships will do that. I think it is a significant change in the way that the state has mandated mobile home locations in the past and because of that, I would request, Mr. Speaker, when the vote is taken, that we have a division.

The SPEAKER: The Chair will order a vote. The pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

77 having voted in the affirmative and 46 in the negative, the motion did prevail.

Signed by the Speaker and sent to the Senate.

An Act to Require the Department of Human Services to Conduct Demonstrations of Adult Day Care and Other Services through Long-term Care Facilities (S. P. 499) (L. D. 1511) (C. "A" S-139)

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

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

Mr. BRODEUR: Mr. Speaker, Ladies and Gentlemen of the House: I just want to state this for the record—when this bill appeared before the Health and Institutional Services Committee, it appeared that it may circumvent the Certificate of Need Act, and after discussion with the committee, the committee felt that the bill does not circumvent that act nor is it intended to.

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

An Act Concerning Representation of Small Businesses Appearing in Small Claims Court (S. P. 576) (L. D. 1655)

An Act to Authorize Creation of a Housing Authority of the Houlton Band of Maliseet Indians (S. P. 577) (L. D. 1656)

An Act to Clarify the Election Laws (H. P. 197) (L. D. 241) (C. "A" H-282)

An Act to Provide Funds to an Elderly Legal Services Program (H. P. 373) (L. D. 456) (C. "A" H-279)

An Act to Protect Employees from Reprisal who Report or Refuse to Commit Illegal Acts (H. P. 592) (L. D. 736) (C. "A" H-274)

An Act Making Appropriations and Allocations for the Expenditures of State Government to Insure that Maine Courts are Accessible to the Handicapped (H. P. 753) (L. D. 984)

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.

Tabled and Assigned

An Act to Revise the Truancy Laws (H. P. 877) (L. D. 1131) (C. "A" H-213 and H. "C" H-264)

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

Mr. Connolly of Portland moved suspension of the rules for the purpose of reconsideration.

The SPEAKER: The Chair hears objection. The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Portland, Mr. Connolly, that the rules be suspended. This requires a two-thirds vote of all those present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

59 having voted in the affirmative and 54 in the negative, the motion did not prevail.

On motion of Mr. Connolly of Portland, tabled pending passage to be enacted and specially assigned for Tuesday, May 31.

An Act to Establish Advocacy Services for Special Education Students in Residential Placements (H. P. 1127) (L. D. 1482)

An Act Relating to the Funding of School Construction Projects (H. P. 1144) (L. D. 1516) (C. "A" H-285)

An Act Amending the Charter of the Telephone Workers Credit Union of Maine (H. P. 1219) (L. D. 1626)

An Act to Change the Workers' Compensation Law with Respect to Asbestosis (H. P. 1262) (L. D. 1672)

An Act to Amend the State Employees Labor Relations Act (H. P. 1263) (L. D. 1673)

An Act to Create a Maine Sentencing Guidelines Commission (H. P. 1270) (L. D. 1684)

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.

The following Joint Order: (S. P. 590)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, May 31, 1983 at 12:00 noon.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

Unanimous Ought Not to Pass

Representative Bell from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating \$150,000 to Operate 6 Regional Emergency Medical Services Councils" (H. P. 695) (L. D. 884) reporting "Ought Not to Pass"

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

Passed to be Enacted

An Act to Establish a Program for Therapeutic Use of Marijuana (S. P. 351) (L. D. 1025) (C. "A" S-143)

An Act to Amend the Licensing Provisions of the Maine Insurance Code and to Require Filing Fees for Fraternal Benefit Organizations (H. P. 1242) (L. D. 1654) (S. "A" S-145)

An Act to Require the Payment of Prejudgment Interest at Prevailing Market Rates on all Judgments, Dating from the Time of Written Notice to the Defendant of the Cause of Action (H. P. 1257) (L. D. 1670)

An Act Concerning Inspection, Registration and Abandonment of Dams (S. P. 404) (L. D. 1252) (C. "A" S-137)

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:

An Act Relating to the Labeling of Milk Containers (H. P. 1132) (L. D. 1498)

Tabled—May 26, 1983 by Representative Mitchell of Vassalboro.

Pending—Passage to be Enacted.

On motion of Mrs. Mitchell of Vassalboro, tabled Unassigned pending passage to be enacted.

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

Bill "An Act to Increase the Minimum Wage" (H. P. 884) (L. D. 1138)

Tabled—May 26, 1983 by Representative Mitchell of Vassalboro.

Pending—Motion of Representative Kilcoyne of Gardiner to Reconsider whereby the House accepted the Majority "Ought Not to Pass" Report of the Committee on Labor.

On motion of Mr. Diamond of Bangor, retabled pending the motion of the gentleman from Gardiner, Mr. Kilcoyne, that the House reconsider its action whereby it accepted the Majority "Ought Not to Pass" Report and specially assigned for Tuesday, May 31.

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

SENATE DIVIDED REPORT—Majority (7) "Ought to Pass"—Committee on Judiciary on Bill "An Act to Provide Equal Access to Justice" (S. P. 203) (L. D. 625)

—In Senate, Majority "Ought to Pass" in New

Draft (S. P. 570) (L. D. 1646) Report read and accepted and the New Draft passed to be engrossed.

Tabled—May 26, 1983 by Representative Kelleher of Bangor.

Pending—Motion of Representative Joyce of Portland to accept the Minority "Ought Not to Pass" Report.

On motion of Mr. Hobbins of Saco, retabled pending motion of the gentleman from Portland, Mr. Joyce, that the House accept the Minority "Ought Not to Pass" Report and specially assigned for Tuesday, May 31.

An Act Relating to Prison Visits (H. P. 699) (L. D. 888) (C. "A" H-261)

Tabled—May 26, 1983 by Representative Richard of Madison.

Pending—Passage to be Enacted.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I urge that you vote for the indefinite postponement of this bill.

This bill spent considerable time in the Judiciary Committee. All this bill does is give the Corrections Department the authority to cancel out certain rules temporarily for security reasons. This does not go to a policy.

This is a kind bill, the kind of bill that should be passed in this House. I don't think it deserves, for what little it does—it deserves much more time than this.

I urge you to vote against the motion before us to indefinitely postpone. I ask for the yeas and nays, Mr. Speaker.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Richard.

Mr. RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: I join with Representative Joyce in asking you to vote against the pending motion.

This is an important issue in the sense that we have people who incarcerated and this is because of situations which they have brought upon themselves but there is no reason that the families of these people, friends and relatives, should be denied the right to visit.

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 in favor of a roll call will vote yes; those opposed will vote no.

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

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: On the surface, this bill seems innocent enough but it really isn't, and one correction about the bill is, we didn't spend much time in Judiciary Committee on this bill because we never got the bill. The bill did not come to our committee, it went to the Health and Institutional Services Committee and probably correctly so.

The thing you want to consider on this is that the key word in this bill is that they want to give the people who are in jail the right to visitation, a right compared to a privilege. As it is right now, according to the rules of the prison, it is a privilege and it says so right in this book here—this is a book on visitation from the State Prison Administration—I will read to you: "Remember that visitation is a privilege." That is my chief objection against this bill.

I do have other objections because this is one of the bills—and you get yourself prepared for this because we have a few bills coming to us

involving giving prisoners more rights and more often.

My point on this bill is that I am not ready and willing, and never will be willing, to give them the right to be entitled to visits. They are entitled to visits, as this book says, it is a privilege which can be taken away from them, but the bill with the amendment says that it makes it a right under Section 7, to clarify and enlighten people like myself and the people that I represent who think that people who are in the State Prison for any length of time have lost all rights but it isn't so. They are still entitled to room and board and feed and everything else for nothing. I am not willing to give them a 'right' to visitation. This would put questioning on the officials at the Correction Bureau and the first thing you know, they would have to put in writing why they were refused such a visit.

The visits, as you probably know, are once a week for two hours and once on the weekend for one hour. The book is very interesting. I imagine it is easy enough to get, it was easy enough for me to get from the Corrections Bureau, although it is a little outdated because the one that wrote this book is Vestil and he is gone anyway.

This bill, along with a lot of others that we are going to have in here, will put you in a position that you have to consider today whether you want to hold the hard line against criminals or whether you want to back up the judges after they have given them a sentence, whether you want to help our police officers, whether you want to help the district attorney and all the other people in the court that actually chase these people and finally get them in prison, whether we want to let them out or not; I don't believe that we should.

I think the basic rules, as you know, have worked on three principles once somebody has broken the law, and that is to punish, deter and rehabilitate. I still go along with the first two but I think rehabilitation has shown that it doesn't work.

Recently, we had somebody come to the Judiciary Committee and talk to us about some other things along the judicial lines and what they have done is, they have changed that rule from punish, deter and rehabilitate to punish, restitution and give them their just deserve and I like that. I think that is what they deserve. We didn't put them in there, they put themselves in there.

I have always said that to make them feel better, we should put them to work. I think we have now gone from an administration which used to be right down the line, hard line, to one that I would say is more compassionate. They don't feel as strong about rehabilitation and giving these people just cause, they want to send these people out on the streets after they have done their time for a day or two or out on suspension.

Under the visit part, where it makes it a right, under certain conditions they won't be allowed visits. Actually making it a right and not a privilege is quite different and once you get it on the books you will have a hard time to get it off.

In the course of things here, some sponsors and many others have talked to me about it, the last time when we let this go this far, there must be a guilty conscience somewhere because somewhere along the line somebody said that this does not involve conjugal visits and if it did, it should not be. Let me tell you something, the law doesn't say that there are any conjugal visits but I can present to you today somebody in this House who knows somebody who got pregnant on these visits. Last Tuesday we had the Commissioner up in the Judiciary Committee on some other subject and once he was done on that particular subject, we were free to ask different questions about the system and one that I asked was, "Did anybody that visited the State Prison or some prison get

pregnant?" He had to say yes, to his knowledge, yes. How do people in prison have access to these people? The book says that they are not supposed to have access.

You can deny that this is not happening but this is true and it should not happen. They say there are all kinds of correctional measures that have been taken but can they give us a guarantee that it won't happen again? There was no guarantee from the Commissioner that it wouldn't happen again and this is what I am very interested in. Why should we give them all kinds of rights in the prisons when in fact they have broken the law maybe to your relative, to your friends and to your families, and we give them rights and take away the privileges from the ones who have been driving and have too many speeding tickets against them. They don't cause any harm to anyone by driving too fast. They are not criminals so why should we take that privilege away from them? We don't care about them, but we reward the prisoners in the prisons.

Look in yesterday's Lewiston paper and see what happens—somebody actually attacked a 13-year-old boy and what did he get? 60 days in jail, isn't that nice? Just think if it was one of your relatives or your son or your grandson, just think what would happen.

I am against this bill and I think I could go on forever but I won't. I made the motion and I think that in good conscience, if you want to protect your family and your friends, this will not stop them, by killing this bill it will not stop the visits at Thomaston or any other place but it will not give them the right that I don't think they are entitled to.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: The Health and Institutional Services Committee had this bill in front of them for some length of time. The department was there, the commissioner was there and members from the prison were there and other institutions.

The amendment states: "Inmates shall have a reasonable opportunity to visit with relatives and friends"—reasonable opportunity—"in accordance with departmental policies and institutional procedures." All this bill does is allow visits for prisoners under guidelines established by the institution and by the department.

I urge you to vote against the motion to indefinitely postpone.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I ask for your support in defeating the motion before this body now. The important line, I think, in this bill is found in the amendment where additional control is passed to the department. It will note that the department may restrict or prohibit visits for safety reasons. The department will have control of their prisoners.

This is a bill that is worthy of passage in this body. I think since the closedown, the lockdown, at the Maine State Prison, there have been many changes there, many, many changes for the good. I don't want to belabor this and it is difficult for me to rise and oppose the motion by my good and dear friend J. Robert Carrier. I have talked to him about this and we will probably talk further, maybe not today but when he cools down Tuesday I will explain it to him, but today I ask for your vote to defeat this motion.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Richard.

Mr. RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: As Representative Carroll has mentioned, this has the blessing and endorsement of the Department of Corrections, and again I say to you, please consider the families, relatives and friends who have done no wrong.

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 in non-concurrence. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YE—Bonney, Cahill, Callahan, Carrier, Carroll, G.A.; Carter, Clark, Conary, Connors, Davis, Day, Dexter, Dillenback, Greenlaw, Higgins, L.M.; Holloway, Jackson, Jacques, Kelleher, Kiesman, Kilcoyne, Lebowitz, Lewis, Macomber, Masterman, McCollister, McHenry, Michaud, Moholland, Murphy, E.M.; Norton, Paradis, E.J.; Parent, Perry, Pouliot, Reeves, J.W.; Ridley, Roberts, Roderick, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Stevenson, Stover, Strout, Swazey, Tammara, Telow, Vose, Webster, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Anderson, Andrews, Armstrong, Baker, Beaulieu, Bell, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, D.N.; Brown, K.L.; Carroll, D.P.; Cashman, Chonko, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Drinkwater, Erwin, Foster, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Ingraham, Joseph, Joyce, Kane, Kelly, Ketover, LaPlante, Lehoux, Lisnik, Livesay, Locke, MacBride, MacEachern, Manning, Martin, A.C.; Martin, H.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McGowan, McPherson, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Murphy, T.W.; Murray, Nelson, Paradis, P.E.; Perkins, Pines, Randall, Richard, Salsbury, Seavey, Soule, Sproul, Stevens, Theriault, Tuttle, Walker.

ABSENT—Brown, A.K.; Curtis, Dudley, Jalburt, Mahany, Melendy, Nadeau, Paul, Racine, Reeves, P.; Rolde, Rotondi, Soucy, Thompson, The Speaker.

Yes, 56; No, 80; Absent, 15.

The SPEAKER: Fifty-six having voted in the affirmative and eighty in the negative, with fifteen being absent, the motion does not prevail.

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

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

An Act to Provide that Joint Custody be Awarded when the Parents Agree to it in Child Custody Cases (H. P. 1243) (L. D. 1657)

Tabled—May 26, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Enacted.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I rise with a few words of explanation about the Judiciary Committee's work this session where difficult domestic relations are concerned.

The bill before you, L.D. 1657, is a new draft of L.D. 480, the so-called joint custody bill. This is one of the results of the committee. The new draft amends current law to require a judge, in a case of divorce or separation involving children, to grant joint custody, if that is the custody alternative the parents choose. The Judiciary Committee heard cases where parents agreed to joint custody, yet the judge has gone against the wishes of these parents. The committee feels that unless a judge has substantial evidence to support a different custody award, the judge should accept the joint custody agreement achieved by the parents.

The committee wishes to emphasize the change we have recommended in current law is not intended to imply that a judge may only grant joint custody decisions remains in the best interest of the child. A judge may, in some cases, find that joint custody is the best though one parent or the other may resent this particular idea.

L.D. 480, in its original form, sought to estab-

lish an order of preference among possible custody orders, the joint custody being the most preferable. Certainly workable joint parenting arrangements are more preferable. No parent should feel that in divorcing a spouse he or she should also divorce his or her children and, most importantly, ladies and gentlemen of the House, no children should feel that either of their parents is divorcing the child.

The Judiciary Committee's extensive work on domestic relations left us, frankly, with many more questions than answers. One of the questions is, should the Maine statutes state that we expect divorcing parents to try to arrange joint parenting? Are sole custody cases and orders that deprive one parent of legal responsibility for that parent's children hurting those children? There are laws affecting children encouraging divorcing parents to use children as pawns in a joint custody battle. Is it even constitutional for a court to deny parents parental rights simply because of divorce without showing that a parent is harming the child? Do we need new institutions, a family law court or mandatory mediation to help families in divorce situations?

Divorce is a fact of life in our times, it is an unfortunate situation. We have a responsibility to help Maine families involved in divorce move beyond their pain to the best possible arrangement for the children. Because of this responsibility, because divorce is a pressing problem of the 1980's, we feel that this area needs great study and we urge passage of this bill.

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

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

An Act to Revise Certain Sections of the Probate Code (H. P. 1256) (L. D. 1669)

Tabled—May 26, 1983 by Representative Hobbins of Saco.

Pending—Passage to be Enacted.

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

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

Bill "An Act to Authorize Bond Issue in the Amount of \$24,600,000 for Highway and Bridge Improvements to Match Federal Funds and to Accelerate the Improvement of Town Way Bridges" (S. P. 415) (L. D. 1262)

Tabled—May 26, 1983 by Representative Nadeau of Lewiston.

Pending—Passage to be Engrossed.

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 gentlemen from Scarborough, Mr. Higgins, if he has received his opinion from the Attorney General as yet?

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

The Chair recognizes that gentleman.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I spoke with the Attorney General about this issue on Wednesday afternoon. I sent the request down yesterday afternoon and as yet I have not heard.

On motion of Mr. Carroll of Limerick, tabled pending passage to be engrossed and specially assigned for Tuesday, May 31.

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

An Act to Amend the Foreclosure Laws (H. P. 1153) (L. D. 1523) (C. "A" H-268)

Tabled—May 26, 1983 by Representative Hobbins of Saco.

Pending—Passage to be Enacted.

On motion of Mr. Hobbins of Saco, tabled pending passage to be enacted and specially assigned for Tuesday, May 31.

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

An Act to Require Interdepartmental Coordination of Social Services Planning (H. P. 1255) (L. D. 1668)

Tabled—May 26, 1983 by Representative Brodeur of Auburn.

Pending—Motion of the same gentleman to Reconsider Passage to be Enacted.

On motion of Mr. Brodeur of Auburn, tabled pending his motion to reconsider and specially assigned for Tuesday, May 31.

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

An Act to Insure State Enforcement of Equal Opportunity in State-supported Educational Programs (H. P. 1241) (L. D. 1653)

Tabled—May 26, 1983 by Representative Mitchell of Vassalboro.

Pending—Motion of the same gentlewoman to Reconsider Passage to be Enacted.

On motion of Mrs. Mitchell of Vassalboro, tabled pending her motion to reconsider and specially assigned for Tuesday, May 31.

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

Bill, "An Act to Require Swimming Pools to be Enclosed" (S. P. 511) (L. D. 1528) — In Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-129)

Tabled—May 26, 1983 by Representative Cox of Brewer.

Pending—Motion of the same gentleman to reconsider whereby the House Adhered to its previous action whereby the Bill and accompanying papers were Indefinitely Postponed in non-concurrence.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I am not properly prepared to debate this bill today. I was not given the opportunity to make the preparations that I had intended to make before debating this bill.

I would like to recapitulate some of the history of this bill. This bill was a unanimous committee report. There was only one opponent at the hearing. We dealt with this opponent's objections. The bill was allowed to go to the enactment stage with no voice raised against it, and at the enactment stage a number of voices were raised against it.

One of the most significant objections has been that slogan of local control. I think we have to realize that local control is not an absolute issue. We deny local control in many more areas than we allow it, especially in the areas where local control has been a failure or localities have refused to take the responsibility of assuming control of some important issue.

Now, how important is the issue of unfenced swimming pools? I don't think anyone here who has ever seen a swimming pool can deny that they are one of the most dangerous things that exist around us when they are unfenced. It is impossible for anyone who owns a swimming pool to attend that swimming pool 24 hours a day to either pull someone out who falls in or warn some child away who is headed for it.

We have been told on the floor of the House that ordinances of this nature have been voted down by some communities. I think that when a community votes that the right of someone to leave this dangerous thing unfenced he is going to be left alone, they can leave this very dangerous thing unfenced, I would submit to you that that community is not living up to its responsibility to protect its citizens. We would not allow a community to refuse to operate schools simply because they felt they would rather spend the money on something else.

I would remind you that we are not mandating the communities that they have got to do anything, we are mandating that if a community does not have an ordinance, there will be a state law in the background to protect the people whom that community has neglected to protect the lives, basically, of little children. We have been told by the Human Services Department that drowning is the most common form of death for very young children. This is not to say that all drownings occur in swimming pools.

We had an argument raised that we don't fence the Kennebec River. Well, I would submit to you that we are fencing the most dangerous part of the Kennebec River, which is the Memorial Bridge across there. We placed safety railing on the most dangerous stretches of the Penobscot River, which are its bridges.

Another thing I might mention, everyone knows where the river is, you can't hide a river or a lake. I grew up within easy access of a river as a child. All of the parents in the neighborhood knew the river was there and from my earliest childhood it was impressed on me never to go near that river unless my parents were with me. If a child did stray out of the sight of his parents, the first thing that happened, they raised the cry and the neighbors headed for the river bank to head that child off in case the child was headed for there. Once they found the child had not headed for the river bank, then they looked in other places.

Swimming pools are much smaller than either a river or a lake. Without a fence around it, it is very inconspicuous, especially for a child that is wandering around after dark.

I simply cannot accept that it is not our responsibility to have a backup law on the books to protect the lives of these little children who have in the past and will continue to be drowned in unfenced swimming pools. They will drown in swimming pools that are fenced perhaps if people are negligent and the parents unlock the gate and let them go out and swim unfattended, but the basic security measure for a swimming pool is a fence. Without it, the only control you have to protect people from drowning in that pool is someone being present at the swimming pool 24 hours of the day. Yes, this would mean the whole state and we would have to fence swimming pools on some farm that was five miles away from another neighbor. My answer to that is that the people who made the swimming pool got there, the people who installed the swimming pool got there, if they could get to that site, sooner or later someone else can get to that site.

I simply cannot let the slogan of local control hide from me the fact that these are little children who will be drowning, this is the bottom line for me. I have never fought a bill on this floor this hard in the nine years that I have been here and probably will never fight another one this hard, but I feel that I have to make every possible attempt I can to save the lives of some of these children. The longer this goes on, the greater the chance is that it will happen.

I ask you to look beyond the slogan of mandating and local control and see just what it is that we are mandating, and that is a fence around one of the most dangerous things that can exist in our environment.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I was lobbied on this bill by I think one of the most effective lobbyists I have ever met in my life. As a matter of fact, I married her 38 years ago. She told me that I should be ashamed of myself for voting against this bill. This is a good bill. If you save one child's life, one, you have done the right thing.

People who can afford a swimming pool can afford a fence, there isn't any problem with that. There are children who do play around swimming pools if they are there. If they are

playing ball and the ball goes in, they make an attempt to pick that ball up and in they go. If you have seen a picture in a paper or if you have seen anything about a child lying down in a swimming pool because it was easily accessible, then for heaven's sake, vote for this bill, this is a good bill. I voted against it the first time; I am voting for it this time.

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

Mr. DRINKWATER: Mr. Speaker, I would like to pose a question through the Chair. How many lives were lost last year in these unprotected pools?

The SPEAKER: The gentleman from Belfast, Mr. Drinkwater, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I cannot tell you how many children have drowned in unfenced swimming pools last year. The doctor who testified before our committee testified, I believe, there were two children who he had treated who had drowned in this type of swimming pool. It is immaterial to me whether a child drowned in a swimming pool last year or not. I know of two children myself who have drowned in swimming pools and it simply stands to reason that this pool with straight sides, if someone does fall in it, even an adult who can't swim, it is hopeless unless there is someone there to pull the person out, and I simply do not believe that we should leave these hazards unprotected.

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

Mr. DRINKWATER: Mr. Speaker, Ladies and Gentlemen of the House: I had a call last night from one of my farmers, I have quite a few farmers in my area, and this is the question that they asked me to ask in the debate today. Also, they were concerned how this affected them. Not every farm but most every farm has a farm pond and do they have to enclose that farm pond, that would be the second question, Mr. Speaker.

The SPEAKER: The gentleman from Belfast, Mr. Drinkwater, has posed an additional question through the Chair to anyone who may care to respond.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I am getting a little tired of having to explain this business of farm ponds. All anyone has to do is read the bill to see that it defines swimming pools and nothing else. I have repeatedly read into the record that it does not refer to a farm pond.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I can't go along with Mr. Vose on this. I have 32 towns that do have a lot of water ponds right in the dooryards and I have had a lot of calls on this and they tell me that if this becomes a law, they will have to fill in those ponds that they use in case of fire.

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I wish that one of the lawyers who serves here in the House would have addressed this in a more expert way as to the common law regarding swimming pools.

A swimming pool is regarded as an attractive nuisance; that is, it is attractive and is a nuisance in that it might be dangerous.

Under the common law, owners of swimming pools are liable for injuries in the pool and death by drowning. Insurance policies for your homeowner insurance, if you have a swimming pool, you must have additional coverage for your liability on your pool. If an accident happens in your swimming pool and the

case goes to court, it is the judge who decides whether or not under the insurance policy the homeowner has maintained reasonable security around that pool, whether it is a fence, whether the fence has a gate that can be latched from the inside, so I do believe that children are protected by this kind of common law.

No 4-foot fence is going to keep all kids out of your swimming pool. As homeowners, we do have responsibilities for accidents around our property, so I do think this is an unnecessary bill. In thickly settled towns where there may be more pools, those towns have seen fit to enact ordinances and that is where the enactment should take place, not at the state level. This is a big brother bill, another one, and we have been voting against them all this week, so I hope that you will go along with me and vote to not reconsider this bill.

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

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: I have to disagree with the gentlelady from Cape Elizabeth that this is a big brother, or big sister bill for that matter. The committee worked long and hard on it and addressed through various means the concerns that she has raised and others have raised about this bill. The bill in the form that it is in now, with the amendment that was attached to it in the other body, I think deals with those concerns that we are somehow imposing some unfair restrictions on municipalities and therefore denying them local control.

Representative Cox has gone over this bill extensively time and time again, and while I realize that it is very convenient for all of us to think of the bill in its original form, it has been changed significantly. If you look at the Senate Amendment that was attached, it does not say that the municipalities have to enact ordinances that are so strong or even stronger than this particular piece of legislation calls for. It just states that if a municipality or a township or whatever that does have no ordinance that deals with this particular concern, then this sets a standard for them. Municipalities can enact ordinances that are much weaker than this or much stronger, whatever, but it is just dealing with those areas where a void exists.

I believe this was a unanimous committee report, they have done a lot of work on this bill. I think a lot of us had a lot of misconceptions about it, myself included in that, but I now feel comfortable with the bill in the form it is in and I ask you to support the gentleman from Brewer on his measure.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Walker.

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: I admit that the loss of one child in a pool is a tragic incident. However, backing over a child, one's own child, in his own driveway, is an equally tragic incident. For every child drowned in a swimming pool, there will be two or three children backed over playing in their own driveway. Are we going to force people to fence in their own driveways?

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to the gentlelady from Cape Elizabeth when she speaks of the common law and the protection of the insurance companies. The type of protection that a child would get under the common law is that after that child is dead, his parents may be able to get a judgment in court.

The protection they will get from the insurance company is that if the parents want to keep that swimming pool open, they can if they pay an extra \$5 a year on their insurance policy. I would like to see the insurance companies or the court that can revive this child who has been in the water for 15 minutes and restore this child to life.

As for other tragedies, I would like to make

an analogy. Physicians cannot cure all forms of cancer, would that be any justification for them to refuse to cure my cancer, which was easily curable, because they could not cure someone else's cancer? Had my physician taken this position, I would not be alive today and I would have died a very terrible death. I make that same analogy, that it is simply ludicrous to say that because we cannot prevent all accidents, that we will do nothing to prevent the ones that we can.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to continue too long on this debate but I have to answer a few of the things.

This certainly does not cover farm ponds, it does not cover, as Mr. Moholland said, the people who have fire ponds in front of their houses. This, with the amendment to it, allows the individual community to make a lesser law, even in the fencing they can make a lesser law. All I can say to you people today is, if you don't pass this law, the next time you read in the paper about somebody's child and the weeping parents, then you can blame yourselves.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Ainsworth.

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I haven't spoken on this bill since it came on the floor and it has been thoroughly pounded, I realize that, but I just want to clear my conscience this morning and say that I am going to vote for this bill and I hope you do too because I have to clear myself with my grandchildren and everybody else's grandchildren.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: Just a few facts if I might. Probably a few of you know that I am in the process of putting a swimming pool in, and when I was talking with the banker two weeks ago to produce the financing for it, he told me that one of the biggest things going on today, as a matter of fact, that same week he financed two other pools in our area, and that ought to tell you something. As I looked over my district last year, I saw more and more of these pools coming in. I wonder how many of us are actually aware of what could be a danger. Where I live, with eight grandchildren around and three or four of the neighbor's children who call me Grampa, and hope they call me that because their parents vote for me and that is what I like, I am in no way going to go without a swimming pool. The way the bill is now, it is something you ought to think about voting for.

Mr. Martin of Eagle Lake 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 of a roll call will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Brewer, Mr. Cox, that the House reconsider its action whereby it voted to adhere. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bost, Brannigan, Brodeur, Carrier, Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Connolly, Cooper, Cote, Crouse, Crowley, Cox, Daggett, Diamond, Dillenback, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Joseph, Joyce, Kane, Kelleher, Kelly, Kilcoyne, LaPlante, Lisnik, MacEachern, Manning, Martin, A.C.; Martin, H.C.; Matthews, K.L.;

Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, E.M.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Perry, Pouliot, Richard, Smith, C.B.; Stevens, Stevenson, Stover, Swazey, Tammaro, Theriault, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Benoit, Bott, Brown, D.N.; Cahill, Callahan, Carter, Clark, Conary, Connors, Davis, Day, Drinkwater, Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesman, Lebowitz, Lehoux, Lewis, Livesay, Locke, MacBride, Macomber, Masterman, Masterton, Maybury, McCollister, McPherson, Michael, Moholland, Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Salsbury, Seavey, Sherburne, Small, Smith, C.W.; Soule, Sproul, Strout, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

ABSENT—Bonney, Brown, A.K.; Brown, K.L.; Curtis, Dexter, Dudley, Jalbert, Ketover, Mahany, Melendy, Paul, Racine, Reeves, P.; Rolde, Rotondi, Scarpino, Soucy, Thompson.

Yes, 74; No, 59; Absent, 18.

The SPEAKER: Seventy-four having voted in the affirmative and fifty-nine in the negative with eighteen being absent, the motion does prevail.

On motion of Mr. Martin of Eagle Lake, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to engrossing.

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

An Act Establishing a Commission to Study the Issue of the Custody of Children in Domestic Relations Cases (H. P. 1244) (L. D. 1658) (Emergency)

Tabled—May 26, 1983 by Representative Hobbins of Saco.

Pending—Passage to be Enacted. (Roll Call Ordered)

On motion of Mr. Hobbins of Saco, retabled pending passage to be enacted and specially assigned for Tuesday, May 31.

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

JOINT ORDER (H. P. 1258) relative to amending the Joint Rules.

Tabled—May 26, 1983 by Representative Nelson of Portland.

Pending—Passage.

Mrs. Nelson of Portland requested permission to withdraw House Paper 1258, which was granted.

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

HOUSE ORDER relative to Propounding Questions of the Supreme Judicial Court.

Tabled—May 26, 1983 by Representative Diamond of Bangor.

Pending—Passage.

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

Mr. DIAMOND: Mr. Speaker and Members of the House: The purpose of this order is to deal with some concerns that members of this body and others have had over a piece of legislation that is currently tabled unassigned in this House, L. D. 7, that deals with limiting contributions to referendum campaigns. As some of you may be aware, there is a concern over the constitutionality of the provision that would limit such contributions, concerns that were raised at the public hearing and raised by members of the committee who signed the "ought not to pass" report.

To deal with those concerns, we have prepared this order which requests the Supreme Judicial Court to declare a solemn occasion and to give us an advisory opinion on whether or not this piece of legislation, as it is currently drafted, is constitutional and whether or not we have other avenues to go as far as dealing with limitations on referendum spending. I

think it is a significant issue, I think it is one of great public policy, great significance to this state, and I believe it is one that is of great concern to the people of this state as well, especially in light of the number of referenda that are becoming more and more common.

I hope that this body will support this. If the Supreme Judicial Court tells us that it does not pass the test of constitutionality, I will support those members who signed the "ought not to pass" recommendation of the committee and move indefinite postponement of this piece of legislation. If, on the other hand, it says it does pass that test, then I think we will then proceed to deal with the bill as it came out of committee.

I do ask your support today, I hope we can get a response from the courts on this, and I think that if we do so, it will give us some direction as to what we can do in limiting what I see as a disproportionate amount of influence in these campaigns.

Thereupon, the Order received passage.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT—Six (6) members of the Committee on Election Laws reporting in Report A that the same "Ought Not to Pass"—five (5) members reporting in Report B that the same "Ought to Pass" as amended by Committee Amendment "A" (H-298)—one (1) member reporting in Report C that the same "Ought to Pass" as amended by Committee Amendment "B" (H-299) on Bill "An Act to Make Voting Places more Accessible to the Elderly and Handicapped" (H. P. 728) (L. D. 937) which was tabled and later today assigned pending acceptance of any Report.

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

Mr. NADEAU: Mr. Speaker and Members of the House: I move we accept Report B, "Ought to Pass" as amended by Committee Amendment "A".

As you can see, this is a thoroughly divided report, the first option being "ought to pass" altogether; the second being Report B.

The bill, in its original form, attempted to mandate that all voting places in Maine be accessible to the handicapped through a formula that I am sure will be described by the proponents of Report C. What Report B attempted to do is address the problem because some members of the committee felt that it certainly was an issue important enough to be considered. However, due to the nature of our state, we thought that Report B would be more acceptable, and to preface my remarks on the report, I just want to say that through investigating this bill and doing a little bit of talking to clerks and selectmen and city councils, there has been an effort made in many communities in Maine to make voting places accessible. In my own city of Lewiston, we have 22 voting precincts that are currently under no mandates and there are 18 out of the 22 that are currently accessible, so there are clerks and town officials throughout Maine that have been making an effort on their own to do this, and I do want to commend them for that.

However, there are those that have not made that effort. Therefore, the committee, a portion of the committee, voted to report out this report which essentially requires that voting places be accessible but also provides for a waiver provision. That waiver provision is described in the Committee Amendment "A" under filing No. 298 and I will read a portion of it: "The Secretary of State shall grant a waiver from the requirements of this subsection to any municipality which can satisfactorily demonstrate that those requirements ought not to apply or would create an extreme hardship."

Essentially what that means is that in Maine, the 490-some-odd communities, many of those communities are extremely small, 10, 15, 25 or

100 people and oftentimes the facilities in that community are old, are sometimes very expensive to adapt in terms of making them accessible, whether it is ramps or something else that is needed to meet that requirement. So what the waiver provision would do is give the Secretary of State authority to review that case and thereby declare that there is a hardship created, that there are no handicapped voters in that community. They would have the opportunity to wait—so it gives that option to the municipal officials should it not be a problem in that community.

There is something absent from the amendment that I think ought to be in there. In discussion with Deputy Secretary of State James Henderson, he suggested as well that it be incorporated into this report should it pass, and that would be to authorize the Secretary of State to promulgate rules and regulations describing exactly what those items to be considered in terms of a hardship would be in more specific terms so that he doesn't have to exercise too much discretionary judgment. And it also would give the opportunity to anybody interested and concerned about the issue, through the rulemaking process and public hearings, to demonstrate their concerns and what they feel would be justifiable concerns for a waiver to be granted.

In Report C, it goes a little further, it is more in line with the original bill and more or less mandates "within a certain period of time" without the waiver provision.

Primarily for the concerns of those very small communities that this might create problems for, we felt that the waiver provision would be in order and that all the rights would be protected for those handicapped citizens who do want to exercise their franchise on their own. They obviously have the option of voting absentee. Many handicapped voters would prefer to exercise their franchise as anyone else would, and I respect that need in them. Therefore, Report B, we thought, was the most acceptable approach to the problem. I do want to reiterate, however, that those people on Report B, as far as I know, are very interested in doing something about the problem and we felt that this would work the best.

Ladies and gentlemen, I hope you will vote for acceptance of Report B. I do intend to amend it at second reader to make sure that the Secretary of State can promulgate those rules and regulations, so it will be absolutely clear what the intent of this legislation is.

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

Mr. HANDY: Mr. Speaker, Ladies and Gentlemen of the House: I am the only signer of the other report, Report C, and I would hope you would defeat the motion before you to accept Report B.

Report B leaves the Secretary of State in a position where they are going to have to make some pretty hard decisions to determine what actually what requirements aren't met under the subsection, what would actually create that extreme hardship. Even going to rulemaking, what happens if one of those things that may or may not be an extreme hardship is omitted from that? I think we put the Secretary of State's Office in a very precarious position here to make that determination.

This asks that the accessibility to the voting place, according to this report, Report B, take place immediately, unless, of course, a waiver is granted.

I would submit to you that probably the best approach is a phased-in plan, and I would hope that you would defeat Report B so we can take a look at the other reports and go into some kind of phase-in program.

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

Mr. ANDREWS: Mr. Speaker, I would request 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 Chair recognizes the gentleman from Portland, Mr. Andrews.

Mr. ANDREWS: Mr. Speaker, Men and Women of the House: I am very grateful for the work of the Election Laws Committee has done on this particular piece of legislation, and this particular amendment that you see before you, Committee Report B, I think is very well intentioned and I am very grateful for it. It has the advantage, in my view, of at least identifying all communities who do not currently have accessible polling places. But the advantage aside, ladies and gentlemen of the House, I believe that this particular report is the polite way of saying "ought not to pass" for this bill.

First of all, to correct the committee chair in his initial remarks, the original bill does not call for all voting places in Maine to be accessible; it calls for only one polling place per community to be accessible. This particular amendment and Report B, I think, with the waiver provision has become so chock full of loopholes that it renders the bill virtually meaningless. I also believe that it is an impractical waiver. For example, how can a town, in filing for a waiver, satisfy the condition on the bill that it satisfactorily demonstrate that the municipality has "no handicapped voters?" The fact that this reason for granting the waiver is even stipulated in this amendment points to the Catch-22 that disabled people find themselves in constantly in this state and across the country; namely, that because the community is inaccessible, disabled people are not seen, and because disabled people are not seen in a community, the community assumes there is no reason to make the community accessible. It goes round and round and round.

In addition, everyone in this chamber and every citizen in the State of Maine is vulnerable to suddenly, at any time, become a disabled citizen; it happens.

Finally, another provision in this waiver says that if the municipality has no handicapped voters or that the physical limitations of a voting place make it impractical to provide an accessible voting place, I have had quite a bit of experience in this area, and I can tell you that almost without exception businesses or communities or individuals who first take a glance and look at their building that they want to make accessible and say it is almost impossible, or practically impossible for me to make this building accessible, when they really take a look at it and use a little bit of Yankee ingenuity and a strong will to do it, they find almost invariably that the cost of that accessibility is much less than what they originally had thought.

If this waiver is permitted, it will allow a community to just take a quick glance and immediately assume that it is impractical without going through a process of establishing just what it would take to make that building accessible.

Committee Report C specifies some of that process and allows someone to go through that process of determining whether or not they can do it, and I would ask that you not support this motion, to vote no on Committee Report B, to allow us to present to you Committee Report C and get a vote on that particular amendment.

The SPEAKER: The Chair recognizes the gentleman from Saint George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to reinforce what Representative Andrews has just said. As a disabled veteran myself, when people in communities judge the size of their disabled community, they look at someone like

me who doesn't have a blantly visible disability and say "he is not disabled, there is no problem." The fact of it is, I can't stand up for an extended period of time, I have a great deal of difficulty standing in voting lines. I happen to be lucky enough that I can select my voting time, to be at the polls at a period of time when there is not a heavy turnout. For those disabled individuals who don't have that capacity, that are dependent on others for transportation or have more severe disabilities than mine, Report B does present serious problems.

I would urge you to vote against Report B so we can consider Report C and hopefully enact that.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: First of all, that is absolutely incorrect in terms of what Representative Andrews stated in his opening remarks. This is by no means a method by which to kill the bill. This is a legitimate, sincere attempt by members of the committee to introduce a piece of legislation that we felt would be acceptable to the members of this body, that we felt would be a practical, workable method by which we could address what we consider to be a serious problem, so I am a bit taken back by that remark. We, by no means, have any intention of somehow end-running this bill. We have a sincere belief in Report B, that it can work, and as I stated, the reason we want to incorporate the provision to allow the Secretary of State to promulgate those rules and regulations is so that those guidelines can be determined so that there will be as little vagueness as possible in the statute.

Again, let me stress that the practical nature of what we are trying to do with the waiver provision, we are not talking small communities, there are communities in Maine with two to five people and five to fifteen people, and those are the communities that I think it would be, from a very practical sense, extremely easy to determine those kinds of restrictions. If there is an individual in the community that is handicapped, the individual would simply notify the clerk or the selectman; if that didn't work, obviously they have recourse to notify the Secretary of State and that, in my estimation, would automatically eliminate any of the restrictions and they would almost be compelled to do it on that basis.

Ladies and gentlemen, those protections will be there, and with the amendment that I intend to introduce at second reader, the Secretary of State will then go through the rulemaking process, everyone in terms of the general public will have an opportunity to come before those hearings and transmit their concerns and what they feel are legitimate reasons for a waiver to be granted or for a waiver not to be granted. Therefore, the intent behind Report B was exactly that, to address the problem in some way that everybody could work with reasonably and that would hopefully protect the handicapped citizen of Maine.

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

Mr. ANDREWS: Mr. Speaker, Men and Women of the House: I just want to make it very clear and restate my initial comment that I believe the committee was acting in good faith, it was well-intentioned, and I am very grateful for the work on this bill. But based upon my experience time after time with trying to create accessibility in communities and private business, I take a look at this particular amendment, from practical experience I think we can improve it, make it more workable, and that is why we have Report C of the committee. I would like to debate this particular amendment and certainly we might reconsider this amendment if we find it does not receive the support of the House. I would at least like to get that amendment before this body in order to have it debated.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lewiston, Mr. Nadeau, that Report B be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Anderson, Armstrong, Bonney, Brown, D.N.; Cahill, Carroll, G.A.; Conary, Crouse, Crowley, Davis, Day, Diamond, Dillenback, Drinkwater, Erwin, Gauvreau, Greenlaw, Gwadosky, Hall, Hickey, Holloway, Ingraham, Jackson, Kelleher, Kelly, Kiesman, Lebowitz, Lisnik, MacEachern, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; Maybury, Mayo, McCollister, McPherson, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, T.W.; Murray, Nadeau, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Pouliot, Richard, Small, Smith, C.B.; Stevens, Stevenson, Stover, Swazey, Tammaro, Telow, Theriault, Tuttle, Vose, Walker, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Andrews, Baker, Beau-lieu, Bell, Benoit, Bost, Bott, Brannigan, Brodeur, Callahan, Carrier, Carroll, D.P.; Carter, Cashman, Clark, Connors, Connolly, Cooper, Cote, Cox, Daggett, Dexter, Foster, Handy, Hayden, Higgins, H.C.; Hobbins, Jacques, Joseph, Joyce, Ketover, Kilcoyne, LaPlante, Lehoux, Lewis, Locke, Manning, Masterman, Matthews, K.L.; McGowan, McHenry, McSweeney, Michael, Michaud, Murphy, E.M.; Nelson, Norton, Perry, Pines, Randall, Reeves, J.W.; Ridley, Roderick, Scarpino, Seavey, Sherburne, Smith, C.W.; Soule, Sproul, Strout, Webster, Wentworth.

ABSENT—Brown, A.K.; Brown, K.L.; Chonko, Curtis, Dudley, Higgins, L.M.; Jalbert, Kane, Livesay, MacBride, Macomber, Mahany, Masterton, Melendy, Paul, Racine, Reeves, P.; Roberts, Rolde, Rotondi, Salsbury, Soucy, Thompson, The Speaker.

Yes, 64; No, 63; Absent, 24.

The SPEAKER: Sixty-four having voted in the affirmative and sixty-three in the negative, with twenty-four being absent, the motion does prevail.

Thereupon, the Bill was read once. Committee Amendment "A" (H-298) was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.

On motion of Mr. Soule of Westport, the House reconsidered its action of earlier in the day whereby An Act to Revise Certain Sections of the Probate Code, House Paper 1256, L. D. 1669, was passed to be enacted.

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

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

House Amendment "A" (H-303) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the House reconsidered its action of earlier in the day whereby An Act to Create a Maine Sentencing Guidelines Commission, House Paper 1270, L. D. 1684, was passed to be enacted.

On motion of the same gentlewoman, tabled pending passage to be enacted and specially assigned for Tuesday, May 31.

Representative Carroll of Gray was granted unanimous consent to address the House.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: On Supplement No. 2 today, "Unanimous Ought Not to Pass" Report, L. D. 884, that bill was an act appropriating \$150,000 to help finance and operate emergency medical services regional councils, first I would like to explain that I was the sponsor of that bill, having worked very closely with EMS for the past four years. I would also like to

thank the Appropriations Committee for the fine work and dedication they did. I agreed to give this "Ought Not to Pass" after the Appropriations Committee worked real hard trying to find some funds somewhere to fund the operation and after the department of Human Services agreed to increase block grant monies to the regional councils and take a solid look at emergency medical services throughout this state both at the regional levels on salaries and operations and at the state office. I would just like to read that into the record so that in the future when you see this bill, you will know what it is all about.

Mr. Ainsworth of Yarmouth was granted unanimous consent to address the House.

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a few remarks as we head into the Memorial Day weekend. As soon as I have concluded, will you please join me in a moment of silence, this silence to honor those courageous people who gave their lives that we might live to serve our State of Maine.

Not too many here assembled, I suspect, realize that over half our nation was born after World War II. We have had since that time the Korean War and the Vietnamese conflict. Most of you will, I hope, be attending a parade in your hometown, perhaps as a participant. This Representative would appreciate, along with all the other veterans of this great State, your patriotic example in reference to our flag. If nothing more this Memorial Day, make known to your children, grandchildren and others the proper respect to Old Glory as it passes down your Main Street. Tell them, show them the correct way to honor their flag on all occasions. Perhaps with this simple bit of discipline and reverence, we can once again bring back the sincere love shown years ago for our honored dead.

I am sure that I speak for all veterans when I say "thank you for helping make this one of our most sincere and patriotic Memorial Days."

(Off Record Remarks)

On motion of Mr. Ainsworth of Yarmouth, the members stood for a moment of silence in memory of all veterans on Memorial Day.

On motion of Mr. Ainsworth of Yarmouth, Adjourned until Tuesday, May 31, at twelve o'clock noon.