

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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HOUSE

Thursday, January 26, 1984

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

Prayer by Reverend William England, All Souls Congregational Church, Bangor.

The Journal of Wednesday, January 25, 1984, was read and approved.

Papers from the Senate

Bill "An Act to Revise the Forest Fire Suppression Tax Law" (S. P. 727) (L. D. 2000)

Came from the Senate, referred to the Committee on Taxation and Ordered Printed.

Was referred to the Committee on Taxation in concurrence.

Reports of Committees**Unanimous Leave to Withdraw**

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act to Revise the Classification System for Maine Waters" (S. P. 402) (L. D. 1250)

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

Communications

The following Communication: (S. P. 728)

The 111th Legislature
State House

January 24, 1984

The Honorable Judy Kany
The Honorable Donald M. Hall
Chairpersons, Energy and Natural Resources
111th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Elizabeth Swain of Pownal for appointment to the Land Use Regulation Commission.

Pursuant to Title 12 MRSA Section 683, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources 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 Energy and Natural Resources in concurrence.

Was Read and Referred to the Committee on Energy and Natural Resources in concurrence.

**Petitions, Bills and Resolves
Requiring Reference**

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

Appropriations and Financial Affairs

Bill "An Act to Appropriate Funds from the General Fund for Public Transportation" (H. P. 1525) (L. D. 2006) (Presented by Representative Connolly of Portland) (Cosponsor: Representative Reeves of Pittston) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Ordered Printed.

Sent up for concurrence.

Business Legislation

Bill "An Act to Regulate the Practice of Therapeutic Massage" (H. P. 1526) (Presented by Representative Curtis of Waldoboro) (Cosponsors: Senator Bustin of Kennebec and Representative Pines of Limestone) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Exclude Business Insurance Transactions from the Insurance Premium Finance Company Act" (H. P. 1527) (L. D. 2007) (Presented by Representative Racine of Bidde-

ford) (Cosponsors: Senator Charette of Androscoggin, Representatives Perkins of Brooks-ville and Telow of Lewiston) (Submitted by the Department of Business, Occupational and Professional Regulation pursuant to Joint Rule 24)

Ordered Printed.

Sent up for concurrence.

Education

Bill "An Act Relating to Certain Testing in Cases of Individuals with Dyslexia" (H. P. 1529) (L. D. 2008) (Presented by Representative Jackson of Harrison) (Cosponsors: Representatives Nelson of Portland, Murphy of Kenne-bunk and Ketover of Portland) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Ordered Printed

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Amend Certain Provisions of the Department of Environmental Protection Statutes" (H. P. 1530) (Presented by Representative Michael of Auburn) (Cosponsors: Representatives Kiesman of Fryeburg, Hall of Sangerville and Senator Kany of Kennebec) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24)

Ordered Printed

Sent up for concurrence.

**Joint Select Committee on
Job Training**

Bill "An Act to Update the Job Opportunities Act of 1981" (H. P. 1531) (Presented by Representative Benoit of South Portland) (Cosponsors: Senator Dow of Kennebec, Representatives Rotondi of Athens and Joseph of Waterville) (Submitted by the Department of Human Services pursuant to Joint Rule 24)

Ordered Printed

Sent up for concurrence.

Local and County Government

Bill "An Act to Enable the City of Portland to Charge Reasonable Interest on Delinquent Sewer Accounts" (H. P. 1532) (L. D. 2009) (Presented by Representative Manning of Portland) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Ordered Printed

Sent up for concurrence.

Marine Resources

Bill "An Act to Establish a Commercial Tag for Atlantic Salmon" (H. P. 1533) (Presented by Representative Vose of Eastport) (Cosponsors: Representatives Carter of Winslow, Kelleher of Bangor and Jacques of Waterville) (Approved for introduction by the majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for Concurrence.

Public Utilities

Bill "An Act Relating to Issuance of Bonds by Sanitary Districts" (Emergency) (H. P. 1534) (L. D. 2010) (Presented by Representative Higgins of Scarborough) (Cosponsor: Representative Vose of Eastport) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed

Sent up for concurrence.

Special Sentiment Calendar

On the request of Representative Jacques of Waterville, the following item was removed from the Special Sentiment Calendar:

In Memory of:

Dr. Kevin Hill, of Waterville, an outstanding physician, Colby College Trustee, former County Commissioner, Medical Center Director, civic leader and above all, a warm and compassionate human being who cared deeply

about his family and community. (SLS 335)

The Resolution was read.

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

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: Last Friday, the City of Waterville lost Dr. Kevin Hill. He left behind a wife and four children, but to those of us who attended his funeral last week, it was easy to tell he left behind a lot more. As I stood in the front of the church and looked back and saw over 700 people from just about every walk of life, from education, elected office, his patients of past, his patients of now, educators, students, the regular guy on the street, you realized that the passing of Dr. Kevin Hill was more than just the everyday loss of someone that you love.

His son, Luke, delivered the eulogy. He started off with telling us about his father the doctor, and those of you who knew Dr. Hill remember him as that rare kind of a doctor that we find today that truly cared about his patients and not about how much money they had in their hip pocket. Luke told us of many times when his father would get up in the middle of the night, driving great distances so that one of his patients would not be inconvenienced. I think that was evident during the funeral.

Then Luke told us about his father, the elected official and public servant. I remember my first term in the legislature when Dr. Hill was a county commissioner and he spoke in defense of what we call a social service in county funding and someone criticized him for it, for his so-called free spending ways, and he kind of looked at me and laughed and said, "I can think of a lot of other things that I would rather be criticized for than this."

Dr. Hill was a former police commissioner in the City of Waterville and still has the reputation of being one of the fairest men to ever hold that position.

Luke then told about Kevin, the father. He said if there was anything he wanted his father to be remembered for, it was the fact that he loved people. Those of you who knew Kevin could understand that. All you had to do is shake his hand or hear him laugh or look right in his eye and you could tell he really did love people, all kinds of people, and he had a very deep love for his family. If you look at the four children today, you will see that he and his wife, Nancy, did a very good job of raising those kids because all four of them are outstanding individuals. When his daughter wanted to enter a field that is a little bit unusual for women to enter, he gave her his support and he encouraged her in every move, and she soon became a whitewater rafting guide.

Not too long after that another female member of his family decided to enter an arena that is new for women—she decided to run for Mayor of the City of Waterville. I watched Kevin react to the whole situation when Nancy ran and when she ran for reelection. A lot of men might have been a little challenged by the whole thing, or at least ill at ease when their wife was elected mayor of a city for the first time in that city's history, but Kevin didn't react that way. He took it with ease, he encouraged her, and I dare say that Nancy probably didn't have a bigger supporter or closer advisor and political allies than her husband. And just by the way he reacted to the whole situation, being perfectly happy with her being in the limelight and always there to give her the support and admiration and love that was very important to her when taking on this new position, I think that tells a lot about the kind of man he was.

Today, I would like to extend our sincere condolences to the family and close friends that Dr. Hill left behind, but I would also like to say that in this situation here, certainly their loss was a loss to the city of Waterville, the sur-

rounding communities and the people of the State of Maine.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I cannot help but reiterate every word that Representative Jacques has said. Among my chronic illnesses has been a problem with my eyes, and for three years, every other Saturday morning at 7:30, Kevin Hill met me at his office, never charged me one cent, refused absolutely, and the only way I could get even was to occasionally send a gift.

As far as the others in his family are concerned in the medical business, they are known worldwide.

I happen to know this, that one of the Hill's performed an operation on the now King, then Prince of Sweden, at a tremendous cost along with the expenses. He performed the same operation on the son of a former member of this House, I know, I bought the glasses, and Dr. Hill did not charge one single cent for something that would have cost a fortune.

They are wonderful people. I feel very sorry for Nancy and the children. I can't imagine a man 54 years old suddenly gone. He did it from overwork, and much kindness went into that work.

Thereupon, the Resolution was adopted in concurrence.

At this point, a message came from the Senate, borne by Senator Pray of Penobscot of that body, proposing a Convention of both branches of the Legislature to be held at 11:00 a.m. for the purpose of extending to the Chief Justice Vincent L. McKusick and the Supreme Judicial Court an invitation to attend the convention and make such communication as they may be pleased to make.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 11:00 a.m., and the Speaker appointed Representative Mitchell to convey this message to the Senate.

Subsequently, Representative Mitchell reported that she had delivered the message with which she was charged.

Consent Calendar First Day

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

(S. P. 648) (L. D. 1838) Bill "An Act to Maintain Equality Between Home Improvement Loans and Other Consumer Credit Loans." (Emergency) Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-279).

(H. P. 1425) (L. D. 1870) Bill "An Act to Amend the Statutes Governing the Licensing and Approval of Adult and Child Care Programs" Committee on Health and Institutional Services reporting "Ought to Pass".

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, January 31, 1984 under the listing of Second Day.

Passed to Be Engrossed As Amended

Bill "An Act to Make Necessary Technical Corrections to the Financial Institution Conversion Process" (H. P. 1394) (L. D. 1817) (H. "A" H-454 to C. "A" H-452)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

Passed to Be Enacted Emergency Measure

An Act to Make Allocations from the Health Care Finance Commission Fund for the Fiscal Year Ending June 30, 1984 (S. P. 720) (L. D.

1992)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and 13 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

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

Mr. HANDY: Mr. Speaker, is the House in possession of L. D. 1791?

The SPEAKER: The Chair would answer in the affirmative. An Act to Revise the Markup Percentage for Maine Produced Products Under the Liquor Law (H. P. 1355) (L. D. 1791) is in the possession of the House, having been recalled from the Governor's Desk.

On motion of Representative Handy of Lewiston, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be enacted.

On further 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-455) was read by the Clerk.

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

Mr. HANDY: Mr. Speaker, Men and Women of the House: The purpose of this amendment is to restore the competitive position of Maine liquor manufacturers by reducing the percentage markup by the State Liquor Commission from 75 to 69 percent rather than the 75 to 65 percent as provided in the original bill enacted last session. This would be phased in, in a period of over three years.

The competitive position was harmed unintentionally by the enactment of the legislation allowing the warehousing of liquor in the State of Maine. By warehousing liquor in Maine, out-of-state competitors of Maine liquor manufacturers can lower the amount of their product which it is marked by the commission and thereby sell their product at a lower price.

Further, this bill allows the state to better compete for jobs attendant to liquor manufacturing. The State of New Hampshire, for example, offers domestic liquor manufacturers a significantly lower markup than that applicable to out-of-state manufacturers who sell in New Hampshire.

This amendment also reduces the estimated revenue loss from \$252,000 to \$126,000, and I would hope that you would support this amendment.

Thereupon, House Amendment "A" was adopted.

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

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

An Act to Provide for Reapportionment of County Commissioner Districts (H. P. 1487) (L. D. 1950)

Tabled—January 25, 1984 by Representative Kelleher of Bangor.

Pending—Passage to be Enacted.

On motion of Representative Kelleher of Bangor, retabled pending passage to be enacted and later today assigned.

By unanimous consent Enactor L. D. 1992 was ordered sent forthwith to the Senate.

House at Ease

Called to order by the Speaker.

The Chair laid before the House the follow-

ing matter:

An Act to Provide for Reapportionment of County Commissioner Districts (H. P. 1487) (L. D. 1950) which was tabled and later today assigned pending passage to be enacted.

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

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

House Amendment "B" (H-456) was read by the Clerk and adopted.

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

The following paper was taken up out of order by unanimous consent:

The following Joint Order: (S. P. 733)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, January 31, 1984, at 10:00 o'clock in the morning.

Came from the Senate read and passed.

Was read and passed in concurrence.

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

In Convention

The President of the Senate, Gerard P. Conley, in the Chair.

On motion of Senator Pray of Penobscot, it was

ORDERED, that a Committee be appointed to wait upon the Honorable Vincent L. McKusick, Chief Justice of the Supreme Judicial Court and the Justices of the Supreme Judicial Court and inform them that the two branches of the Legislature are in Convention assembled ready to receive such communication as pleases them.

The Chairman appointed:

Senators:

TRAFTON of Androscoggin
VIOLETTE of Aroostook
COLLINS of Knox

Representatives:

HOBBS of Saco
JOYCE of Portland
CARRIER of Westbrook
BENOIT of South Portland
SOULE of Westport
HAYDEN of Durham
DRINKWATER of Belfast
REEVES of Newport
LIVESAY of Brunswick
FOSTER of Ellsworth

Subsequently, Senator Trafton of Androscoggin reported that the Committee had delivered the message with which it was charged and that the Honorable Chief Justice and Associate Justices of the Supreme Judicial Court were pleased to say that they would forthwith attend the Convention.

At this point, the Honorable Chief Justice and Justices of the Supreme Judicial Court entered the Convention Hall amid applause of the Convention, the audience rising.

The CHAIRMAN: It is an honor and distinct pleasure always to have the Court come before a joint session of the Legislature. It is my personal pleasure today to introduce the members of the Court. It is my pleasure to recognize the following Associate Justices of the Supreme Judicial Court:

The Honorable David A. Nichols
The Honorable David G. Roberts
The Honorable Daniel E. Wathen
The Honorable Louis Scolnik
The Honorable Thomas E. Delahanty, Active Retired Justice of the Supreme Judicial Court
The Honorable Armand A. Dufresne, Active Retired Justice and former Chief Justice of

the Maine Supreme Judicial Court.

It is a pleasure to welcome one who served amongst us for a few years, The Honorable Robert W. Clifford, Chief Judge of the Maine Superior Court.

It is my personal pleasure also to recognize the Honorable Bernard M. Devine, Chief Judge of the Maine District Court.

It is now my distinct pleasure and honor to present to you the Chief Justice of the Maine Supreme Judicial Court, The Honorable Vincent McKusick.

Chief Justice McKusick then addressed the Convention as follows:

President Conley, Speaker Martin, and distinguished members of the Legislature:

It is a real privilege to have this invitation to report a second time to the 111th Legislature. I thank you, Mr. President and Mr. Speaker.

I am pleased to have with me today my fellow members, at least some of them, of the Supreme Judicial Court. I like to call them the "board of directors" of the Judicial Department. I am also pleased to have Chief Justice Clifford of the Superior Court and Chief Judge Devine of the District Court with me who share leadership responsibilities in the department. I have to carry to you regrets as well as greetings, but regrets from Justice Elmer Violette and from Justice Caroline Glassman. He is undergoing routine surgery at the Cary Memorial Hospital in Caribou this morning, and she is housebound in Portland, a victim of a fall on the ice the night before last—we miss them both.

This invitation and our grateful acceptance of it demonstrate the realization by both of us that cooperation between our two great branches of government is essential if the constitutional mandate of each branch is to be fully carried out. The fair and efficient administration of justice in Maine comes only through cooperation between the Legislature and the Judiciary.

You have, or will have, before you shortly two proposed statutes that well illustrate the healthy potential of such cooperation, each in its own special way. The first is the recommendation of the Advisory Committee on Collective Bargaining for Judicial Department Employees. This is a recommendation of the Advisory Committee, which has been chaired by Dean James Carignan of Bates College, and with balanced membership representing both sides of public sector collective bargaining, was appointed by the Supreme Judicial Court under your authorization of a year ago. That Advisory Committee recommends that you of the Legislature enact a statute, and that at the same time the Court issue an administrative order, establishing in identical parallel fashion the right of judicial employees to bargain collectively. The Court stands ready to do its part in that cooperative effort.

A second example of proposed cooperation comes from the report of your Commission on Local Land Use Violations. That Commission, chaired by Senator Trafton, recommends 1) that you confer additional jurisdiction upon the District Court to enforce compliance with land use laws by equitable orders of abatement and 2) that the Supreme Judicial Court by rule prescribe a streamlined procedure for the District Court in such cases similar to that used for civil traffic infractions. Of course, I have no right to intrude upon your study and deliberations on the legislative wisdom of that statute; but, I do assure you that if you enact it, the Court will do its part in promulgating an implementing rule.

In reporting to you at your first regular session, I took a look back over the preceding five years and in a rather wide-sweeping way reviewed the developments in Maine courts. This time I propose a less comprehensive report and one limited in time to 1983. I will try to hit the high spots.

First, the Law Court—the name historically

given to the Supreme Judicial Court when it sits to hear appeals. The new system for workers' compensation appeals, set up two years ago by the Legislature, is working as intended. An appeal from a single commissioner's decision now goes first to an Appellate Division consisting of two or more of the other commissioners; then, the losing party can get a full hearing in the Law Court only with the court's permission. Only about one third of the appeals from hearing commissioners' decisions are being taken beyond the Appellate Division. That division is thus performing a valuable screening function; and also the commissioners sitting as the Appellate Division can develop a coordinated approach to workers' comp questions before they come to the Law Court. The whole appellate process, I am sure, is thereby improved.

Even with the reduced number of workers' comp appeals reaching the Law Court, the filings in the Law Court remain at an annual level of about 500 cases. A steady increase in civil and criminal appeals in other categories has taken up the slack. We are proud to report that we remain abreast of our heavy workload.

Now let me turn to the trial courts. As of January 1st, as you know, the Superior Court has had a Chief Justice, authorized by you last year. It will come as no surprise to you who know Chief Justice Clifford, he has undertaken his new responsibilities with enthusiasm and effectiveness. As of January 1st, I have also reappointed for another three-year term Chief Judge Devine of the District Court. He has again designated Judge Alan Pease as his deputy. It is a tribute to Chief Judge Devine, and his predecessor, Chief Danton, that when we reorganized the Superior Court, we modeled its new structure exactly upon that of the District Court. I am now relieved of many of the details of administration in the Superior Court, as I have been in the District Court, so I can concentrate on coordinating the operations of the several courts.

In 1983 we found particularly useful the flexibility the Legislature has given us over the years in assigning trial court judges to sit in other courts than their own. Just one example, under the new law of last year that permits me to assign the two Administrative Court judges to sit in the Superior Court, as well as in the District Court, they have during the last six months of 1983 devoted one judge one week per month to hearing contested divorces and other nonjury cases in the Superior Court in Cumberland County.

Our widely praised in-court mediation service continues to be a success story. In March, I issued an administrative order that made available mediation in family law cases in all court locations statewide. Although that order requires the attorneys and the judge in any particular divorce case to explore with the parties the suitability of mediation, going to mediation remains a matter of choice by the parties, and any issue is resolved in mediation only by mutual agreement. An average of 50 divorce cases per month were mediated during the period May through December of 1983. We expect that number to increase this year, but the number inevitably is going to remain too small to provide any significant relief to our trial courts, faced with 7,500 divorce cases a year, all but 400 of them in the District Court. However, mediation is a valuable tool as an adjunct to our regular adjudicatory processes. Because of the voluntary feature, I believe where it is appropriate it produces a better brand of justice. Because of that voluntary feature, court orders entered on a mediated settlement, in whatever kind of case, later meets with a higher level of compliance than does an order entered after an adversary court proceeding.

We can report another matter, that the District and Superior Courts are successfully implementing the Single Trial Law, now in effect

for two full years. In those two years, 1982 and 1983, the staggering number of 158,000 criminal cases, Class D and Class E cases and traffic criminal cases, were commenced in the District Court. All of those 158,000 criminal cases could have had a jury demand, requiring transfer to the Superior Court for trial. However, our fear that the superior court might be swamped by defendants transferring to gain time has proved unfounded, fortunately. In fact, the number of cases transferred for trial to the Superior Court in those two years has actually been slightly fewer than the total number of transfers and appeals to the Superior Court during the last two years under the old law, at a time when both transfers and appeals were entitled to a full trial in the Superior Court. We will continue to watch the situation closely, but apparently the message is out that transfer to the Superior Court merely for delay does not work, and we want, of course, to keep that message that way.

I now turn to a subject that any report on the courts must address to be complete. I want to identify for you some of the pressing needs faced by Maine Courts.

Last year I reported that "very soon we will need additional judges," and I assured you that we would, before the second regular session, quantify our need as precisely as the nature of the question will permit. That has now been done by our Judicial Policy Committee, chaired by Justice Roberts. For the past 11 years, the Superior Court has had 14 judges, since 1973. We now ask for three additional judges for that court. The Superior Court's pending caseload has steadily grown until it is now over 17,000 cases—some 80 percent higher than in 1973. That 17,000 cases is roughly comparable to all the cases that are filed in a year in the Superior Court. In other words, the present complement of judges could work away at this backlog and not clear it away in one year. This growing backlog exists despite the fact that each Superior Court Justice is now disposing of more than 11,000 cases a year—nationally rated a high level of productivity. These figures simply reflect the litigation explosion that has reached Maine. In the past 11 years, litigation has also become more complex—often involving multiple parties with multiple counsel, and often brought under statutes that did not even exist in 1973, the Consumer Credit Code, the strict liability statute, the Tort Claims Act just as some examples. Both civil and criminal motions are filed much more frequently than 11 years ago, aided by the routine use of word processors in our lawyers' offices. Facing the same phenomenon, the legislature in New Hampshire has authorized the addition of ten more Superior Court judges over the next three years.

Justice Roberts' report also documents the need for three additional District Court judges. In 1973 the District court had 20 judges, and the only addition since then has been the one judge authorized two years ago. In that eleven-year period, major additions have been made to the District Court's responsibilities. For instance, the Protection from Family Abuse statute was enacted in 1979, and last year that statute generated over 2,100 cases in the District Court, sensitive cases demanding much judge attention. The rules to implement the Single Trial Law require all pretrial motions to be filed, heard, and decided in the District Court before criminal cases with a jury demand are transferred to the Superior Court for trial. In addition, as I mentioned earlier, the Commission on Local Land Use Violations proposes an equity-type enforcement procedure in the District Court, recommended in preference to creating a statewide system of land use hearing examiners, that proposed law would increase the workload of the court. The caseload of the District Court has already increased by well over one third in the past 11 years. And in that court also, the cases are now

more complex and more demanding of judge time than they were in 1973.

By any measure, Maine has a remarkably small judiciary on a population basis and various other tests that are applied. The requested increases in the Superior and District Courts are modest in light of the documented need. We trust you will give our request your careful consideration.

We are also in critical need of additional help in our clerks' offices. In the District Court this clerk shortage has become particularly acute since the Single Trial Law went into effect two years ago. To implement that law, all arraignments and all pretrial motion hearings in transfer cases have to be recorded. This means that clerical personnel are taken out of the office and put into the courtroom to monitor the recording. As a consequence, the remaining office staff works under even more pressure to accomplish their steadily growing workload in timely fashion. Under these pressures, unfortunately, some of our best clerks of court have resigned or have taken early retirement. In the Superior Court, the expanded caseload and the growing complexity of litigation and motion practice also necessitate additional clerical personnel. We can be very proud of the men and women who work in the clerks' offices at our 50 trial court locations around the state. They work hard and productively, but they cannot be expected to continue to carry their steadily growing burden without adequate help.

I would now turn to another great need of our courts, and that is facilities, which I always talk to you about every time I come before you. Unfortunately, we all have to continue to address it. I was asked recently how many state courts operate in buildings constructed with state bond issues. The answer is none. If I asked you how many of our 50 trial court locations are housed in facilities constructed with any kind of state funds at all, how many would you say? The answer is one. Only the Augusta District Court located down here on the circle is located in a state-owned facility, constructed 14 years ago by a direct appropriation. It is one of our better buildings.

The State became responsible for all of our state courts on January 1, 1976. Yet, in spite of our joint efforts, the public remains poorly served by court facilities in several locations.

The District Court system leases space in 32 cities and towns, at all of its locations other than this Augusta building. Twenty-seven of those facilities are owned by county or municipal governments, five by private owners. Our state Superior Court continues to operate entirely in county facilities for which, under the 1975 statute, the State pays no rent. So, it is clear that our state court system remains almost completely dependent on facilities provided by other governmental units or by private landlords.

Our court facilities ought, really, to promote respect for the laws that are made here in this great State House. Unfortunately, many do not.

Our top priority has to be to improve our court facilities in Portland. That is by far the largest and busiest location for both the Superior Court and the District Court. Both are crammed into the Cumberland County Courthouse. That is a magnificent structure, built 75 years ago and well maintained by the Cumberland County Commissioners, but it is just too small to meet today's demands.

The District Court in Portland should have four courtrooms to handle the approximately 40,000 cases filed each year from the 12 communities it serves. It needs to triple its space in order to serve the public adequately. The Superior Court needs, by conservative standards, to increase its space by more than 50 percent for proper functioning. It will cost in excess of \$5 million to build an addition to the courthouse to provide those essential needs.

Meanwhile, the consequences in the Portland District Court are serious inconveniences to the public and added delay to the judicial process. The Superior Court in Cumberland County has a backlog now of 4,200 cases. It takes the average civil case to get from filing through disposition 575 days because of the shortage of courtrooms and the necessary priority that we give to criminal cases.

In addition to the Portland situation, we urgently need to obtain a new judicial facility to serve the Bath-Brunswick area. There we contemplate a building where the present District Court operations in both communities will be consolidated. Such a building can accommodate the Superior Court for Sagadahoc County and serve eastern Cumberland as well. Such a building can be constructed for \$1 million.

We in the Judicial Department look to your collective wisdom to decide how to fund these urgent building needs. Should it be by bond issue, or should it be by direct appropriation, or by a combination? We have failed in the past to find a solution to these questions, but we must not let that cause us to stick our heads in the sand. Every year, the situation gets worse, and more expensive to correct.

Before closing, I want to make some general observations.

The courts have always rendered essential social service, not merely public service, but essential social service. The courts were among the first social service agencies, long before the Department of Human Services was conceived of and indeed long before many of its functions were seen as appropriate for government. The trial and punishment of crime and the resolution of civil disputes have been, from the earliest days of civilization, of utmost importance to a safe and harmonious society. The courts have long since become so much an accepted part, an established part, of civilized society that it is all too easy for us to take them for granted. We can no longer afford to do so. The courts have to have sufficient judges and support staff, and they must be given adequate facilities and technological tools in order that they may do their jobs. Failure to do so will jeopardize the very fabric of our society.

Courts will never win a popularity contest. Every day judges are called upon to make tough decisions. At times those tough decisions, though made in keeping with constitutional and statutory standards, cause frustration and even hostility toward the judiciary among some of the public. Furthermore, going to court is always a painful experience, even for the party who seemingly prevails. Judge Learned Hand, who spent most of his adult life in the courts, once said that he would view his own involvement as a litigant as a personal disaster. However much, it was a mistake for us to lump court building needs into an omnibus bond issue last fall and however much we in positions of public responsibility failed in making our case for court facilities before the electorate, both then and three years before, the simple fact is that the courts have no natural constituency. The courts can only appeal to the intelligence and the fair-mindedness of Maine citizens.

These remarks lead me to my final observation. Ever since my father served in both the House and the Senate starting forty-three years ago this month, the Maine Legislature has been to me a very special institution—a place where men and women of all callings, including farmers like my father, come together to make laws to advance the best interests of our beloved State of Maine. From my acquaintance with you individually and as an organized group, I know that you recognize the essential social service that Maine courts perform. I know that you are every one committed to doing what is right as you see it in carrying out your lawmaking responsibilities. I know that you will do your very best to give us in the courts the tools that we need. No one can ask

for more.

Thank you very much for your time and your attention.

The Chief Justice and Associate Justices of the Supreme Judicial Court withdrew amid the applause of the Convention, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved.

The Senate then retired to its Chamber, amid applause of the House, the members rising.

In the House

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative Reeves of Pittston,

Adjourned until Tuesday, January 31, 1984, at ten o'clock in the morning.