

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

**Volume II**

**April 23, 1973 to June 5, 1973**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

cers of Kennebec County" (H. P. 971) (L. D. 1278)

Same gentleman from same Committee reporting same on Bill "An Act Increasing Salaries of County Officials of Hancock County" (H. P. 289) (L. D. 363)

Same gentleman from same Committee reporting same on Bill "An Act Increasing Salaries of County Officials of Knox County" (H. P. 926) (L. D. 1224)

Same gentleman from same Committee reporting same on Bill "An Act to Increase Salaries of County Officers of Washington County" (H. P. 303) (L. D. 405)

Reports were read and accepted and sent up for concurrence.

#### **Referred to 107th Legislature**

Mr. MacLeod from the Committee on Natural Resources on Bill "An Act to Amend the Site Location Development Act" (H. P. 1375) (L. D. 1831) reporting to be referred to the 107th Legislature.

Report was read and accepted, the Bill referred to the 107th Legislature and sent up for concurrence.

#### **Ought to Pass Printed Bill**

Mr. Norris from the Committee on Appropriations and Financial Affairs on Resolve Providing Funds for Purchase of Water Rights and Dam on Big Ferguson Stream, Somerset County" (H. P. 1395) (L. D. 1838) reporting "Ought to pass."

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

#### **Order Out of Order**

Mrs. Clark of Freeport presented the following Order and moved its passage:

ORDERED, that Beverly Brewer, Peggy Davis, Ollie Dyer and Candy Moon of Freeport be appointed Honorary Pages for today.

The Order was received out of order by unanimous consent, read and passed.

Mr. Gahagan from the Committee on State Government on Bill "An Act to Permit Public Em-

ployees to Enter into a Deferred Compensation Plan and Authorize the Purchase of Insurance and Annuity Contracts" (H. P. 1296) (L. D. 1682) reporting "Ought to pass" in New Draft (H. P. 1552) (L. D. 1984) and new title "An Act to Permit Public Employees to Enter into a Deferred Compensation Plan and Authorize the Purchase of Annuity Contracts and Investment Company Shares."

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

The SPEAKER: Will the Sergeant-at-Arms kindly escort the gentleman from Dover-Foxcroft, Mr. Smith, to the rostrum.

Thereupon, Mr. Smith assumed the Chair as Speaker pro tem and Speaker Hewes retired from the Hall.

#### **Divided Report**

Majority Report of the Committee on Judiciary on Bill "An Act to Make Murder Punishable by Death" (H. P. 979) (L. D. 1293) reporting "Ought not to pass."

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland  
— of the Senate.  
Mrs. BAKER of Orrington  
WHITE of Guilford  
KILROY of Portland  
WHEELER of Portland  
Messrs. PERKINS  
— of South Portland  
McKERNAN of Bangor  
DUNLEAVY

— of Presque Isle  
— of the House.

Minority Report of the same Committee on same Bill reporting "Ought to pass" as amended by Committee Amendment "A" (H-472)

Report was signed by the following members:

Messrs. CARRIER of Westbrook  
GAUTHIER of Sanford  
HENLEY of Norway  
— of the House.

Reports were read.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker, I move the acceptance of the Majority "Ought not to pass" Report.

The SPEAKER pro tem: The gentlewoman from Orrington, Mrs. Baker, moves the acceptance of the Majority "Ought not to pass" Report.

The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give my reason why I voted for the amendment that was put on the bill.

We have had in Sanford a couple of people, especially one of the people that I am thinking of at the present time, a person who was murdered not too long ago. It seems to me that what is happening here, we give these people like this chap here that killed this person in Sanford, he stabbed him about 25 or 30 times, and they gave him life. And the first thing that I read in the papers, 11 years from now he has got a right to get out on a pardon. I feel, and the reason why we had the amendment drawn, anyone who goes out and kills anyone like this and stabs a person 25 or 30 times or kills anyone else, I don't think they should be out within 10 or 11 years and go out and have the chance to do it to somebody else. So I think it is about time something is done in this direction here. In fact, we had a bill in here not too long ago.

We had another boy in Sanford who was killed, who was a ticket taker there on the super highway. This fellow killed him when he got out of there to give him his ticket, was speeding from the New Hampshire line, was drunk, and was hitting about 60 miles an hour, and he killed this boy here who was helping his family to help a brother and a sister and himself to go through college.

The first thing they do, they go into court, it goes to Superior Court, it was in the Portland papers, and apparently the judge gave him — he was supposed to have eight or ten years in prison — and the first thing we knew at the end of three years — he

was out of jail in a couple of years.

I don't think these people who are going out killing people like this who are really responsible, stabbing people, killing them with their car with their speeding, evading the officers from another state, should be let out so easily.

In fact, I have got the Associated Press report here in the Portland paper of May 23, 1973. I am not in favor of putting the death penalty, and this is the reason why I was in favor of the amendment and voted for the amendment. In fact, I have, with the two other members of the committee, a lawyer, grant the amendment. And the Associated Press here states as of May 23, 1973, 13 states have enacted laws to bring back the death penalty and measures reinstating capital punishment are awaiting gubernatorial action in two other states. An Associated Press survey of the 50 states shows that the issue was pending in 16 states. The states that have passed bills restoring the death penalty are Arkansas, Colorado, Connecticut, Florida, Georgia, Indiana, Montana, Nebraska, Nevada, New Mexico, Ohio, Utah and Wyoming.

And like I told you in my previous statement, I am not in favor of death penalty. But I am not in favor, after they have killed or stabbed someone or killed someone, the way they are doing it and be out in two or three years. I think it is about time, if we are going to protect the people of this state and the country, we have got to do something in that direction. And I don't think by letting them out after what they have done deliberately in these instances that they should be out in two or three years.

I hope you vote against the "ought to pass" report and accept the minority report.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Fecteau.

Mr. FECTEAU: Mr. Speaker and Members of the House: Let me give you a brief summary of what has happened since I put in this bill. I was asked — the bill was put in by request as you all know. I have received more mail that

favors the death penalty, not only from the people from the State of Maine but from all around the country.

In other words, I have mailed five or six copies of the bill to different states. In fact, I still have a letter in my pocket here from a law student at Stanford University. He wants a copy and he wants the debate, and summary of the bill. I received, a couple of days ago, this magazine from the State Government, and there is an article on Page 76. Let me read the paragraph that I would like to read to you where a young family was murdered in a robbery of a small grocery store. The robber killed the whole family to make sure that there would be no witnesses. After all, the killer had nothing to lose in taking the lives of his victims. His act of murder carried no greater punishment than his robbery of the victims by means of a firearm.

There is another article in New York where this bank robber had eight hostages, and he told them, "Don't you dare move." He said, "I am liable to kill all of you." So one of the hostages asked him if he would have the gumption to massacre the whole eight of them. He said, "The Supreme Court will let me get away with this, there is no death penalty, it is ridiculous. I can shoot everyone here, then throw my gun down and walk out and they can't put me in the electric chair."

You have to have a death penalty. Well, you know, I was really against the death penalty, but after all the mail I have received, I wonder if it would be a good idea if the people of the State of Maine would have a right to vote and find out if they would rather have the death penalty or just the life imprisonment.

This morning I was talking with one of the members of the Executive Council, and I was asking him, I said, "If we really pass this bill with the life imprisonment with no parole, will this stand?" He said, "I doubt it, because there is always some way they can come to us and we have full rights to give them a pardon."

So in that case, I would like the people to be able to vote on this item then. If there is no way that we can pass the bill for the life imprisonment to stick after a man has come out like these two examples and sees that really they are laughing at us, I think it is really too bad. Really, I insist that we accept the minority report at least.

Mr. McHenry of Madawaska requested a roll call.

The SPEAKER pro tem: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker and Members of the House: If I am in order, I would move for the indefinite postponement of this bill at this time. I am deathly against the death penalty, especially here in the State of Maine or any place.

I am not quite so sure that I believe the gentleman when he says that this bill was put in by request, because I understand that this bill was put just a couple of weeks after the President of the United States asked for the death penalty in high aggravated plane hijackings and whatnot.

About 13 states now have brought back the death penalty. I don't think the death penalty is a deterrent, I don't think it is a punishment. I think it is the complete end. I don't believe in it, I won't vote for it, and I ask you to vote for the indefinite postponement of it.

The one thing that disturbs me since the bill has gone to committee and come out a divided report, I think this bill is almost as ridiculous as the bill that was put in by somebody for a handgun.

We don't need this bill, it shouldn't be here. I don't know what we are doing with it. It is a ridiculous bill.

Personally, I have been waiting for this bill to come down the pike. I lost my thought, I had something else to say against the bill. I am trying to think of that.

I guess one of the things that has disturbed me — maybe I am out of order here, but one of the things that has disturbed me about the bill or about the supporters, I haven't received any mail whatsoever on this bill, on this piece

of legislation. I have received mail from the people who belong to the Rights of Life, and I can't see why they are supporting the right to life on one end of the spectrum and not the other. I think we are dealing here with living human beings, and I don't think we are in any kind of position to make a judgment where we can take the right of life away from any human being for whatever crime. Therefore, I would sincerely hope that you support the motion to indefinitely postpone this bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker and Members of the House: I would like to give you a little more explanation. Apparently, I probably didn't make myself clear when I first spoke on the bill from the remarks that I just heard from Mr. Talbot. There is no bill here that calls for life and death penalty. The amendment on this bill is that they give a life sentence, not a death penalty, because I am against — personally against killing anyone. But I don't believe that if someone deliberately kills another that he should go to jail or the state prison and come out within a couple of years like I mentioned before.

I would like to repeat again for Mr. Talbot and the rest of this House that there is no death penalty in the bill at the present time. The amendment that we have got on there is that they get life sentence when they deliberately kill someone else.

The SPEAKER pro tem: The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker, Ladies and Gentlemen of the House: Briefly on this bill, after hearing as those in the committee will testify, we did have a hearing on the death penalty. We did have proponents and opponents. I, for one, did not receive any mail either way on it.

I did go along with the rewrite of the bill, merely a matter of parole. I went along with that because in spite of the objections to that type of punishment, perhaps which my good friend, Mr. Talbot,

objects to, is one thing that I mentioned in committee hearing and I will state so now. We can have all kinds of compassion for a criminal. We can say that even though it might be premeditated murder, that the murderer is salvagable, that we must give him another chance. What I said in committee, and I will say now is that he did not give those people that he murdered another chance.

I would like to read a short paragraph here which perhaps some of you have read on the Corona case in California. "Thirty-eight year old California farm labor contractor who was recently convicted in the nation's most notorious mass murder, had been sentenced to 25 consecutive life terms in prison for each of the 25 killings." Now, here is the punch of this whole paragraph. "But a spokesman for the California Audit Authority, Mr. Haldeman, now explains that the murderer will come up for parole in a mere seven years."

Seven years, ladies and gentlemen, for 25 murders. You can't bring back any of those people who were murdered maliciously, 25 of them. I don't believe that anybody that commits this type of crime on society has the right to ever come back in that society.

They say murders are committed on impulse. We are talking about convicted premeditated murder. Now this bill changes it. I am quite sure that the State of Maine is not interested in capital punishment to the extent of taking life. There has been very little of it done in Maine's history, and there hasn't been any for a good many years, some of you probably know how many. Yet, the state would not buy death penalty, but they might go along, and a lot of the people, with a life sentence with no parole. There might be a way, of course, the governor always can pardon. That has nothing to do with parole. But at least we would have this assurance that we can have a murder or a multiple murderer and have him available for parole in a matter of a mere seven to ten years.

So I hope you will reject the indefinite postponement and vote

for this minority report which merely states that there will be no parole.

The SPEAKER pro tem: The Chair recognizes the gentleman from Portland, Mr. Talbot.

Mr. TALBOT: Mr. Speaker, Members of the House: I would be remiss in my duties if I did not apologize to the members of the House. I was late getting here and the first — when I first came into the House, I asked what was up next and they said this bill here that we are talking about, and I didn't have a chance to see the amendment. So, for that, I apologize to the House.

I still leave my motion on the floor, because I don't believe — I also don't believe in the amendment, so that I would amend my motion, if I am in order, so that this bill and all accompanying papers be indefinitely postponed.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I rise to oppose the indefinite postponement motion, because I think the three gentlemen on the Judiciary Committee that signed out the minority report with the amendment probably is just the answer, just the ticket the people in this state — and I know I am one of them — are looking for.

If I have read the amendment correctly and listened to the remarks made by the gentleman from Norway, he simply stated that saying that on a premeditated murder, that these individuals would be not allowed for parole at any time. Now, that doesn't seem very unreasonable to me, because if an individual takes the time to plan and eventually murder some individual, why should the State of Maine give this man the privilege to be walking amongst you and I, our friends and relatives and the people that we represent.

I think the very people in this state would support the majority of the little people, like myself, and all of you people here would support these three gentlemen, and I ask the House not to vote to indefinitely postpone and then eventually

accept the minority report as amended.

The SPEAKER pro tem: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker and Ladies and Gentlemen of the House: I rise to agree with Mr. Kelleher and to oppose indefinite postponement and to agree with the minority report.

You will recall earlier in the session I submitted bills that would increase the penalties for the crimes of wreckless homicide, death caused by violation of the law by motor vehicle operator and wreckless driving. These bills eventually were passed in a compromised form that was acceptable to all. The penalties were increased and the mandatory provisions were eliminated.

Now, I support the minority report here for the reasons that Mr. Kelleher stated very eloquently, and I would like to recount to you a related case, not for premeditated but for wreckless homicide, which caused me to get interested in this subject. You will recall a sheet that I passed around at the time my bills were going through. One of the cases happened in York County. It involved a defendant who pleaded guilty to wreckless homicide. This individual was driving north onto the Maine turnpike after having run the toll at the ten cent bridge. He was driving without headlights and in an inebriated condition, this by his own admission. He did not stop at the tollhouse on the Maine turnpike and ran over and killed a turnpike employee, college student who was working there for the summer; and that wasn't sufficient, he kept going.

Now, the police cruiser was there, the York police cruiser, and he did apprehend the individual shortly thereafter. When that case went to the Kittery District Court, all the charges were dropped in favor of the more serious one, the charge of wreckless homicide. When the individual went to court, he pleaded guilty, admitted the charges for which he received three years sentence, suspended, all but 60 days. That he had

already spent in the county jail, so he was released. My dear people, I would like to tell you that the people of York County were outraged, and the family, the mother of the person who was killed, asked a question, I am sure, of herself, what kind of justice is this?

Now, this bill does not pertain to wreckless homicide, agreed. It pertains to a more serious charge, premeditated murder. I would hope that you would defeat the motion to indefinitely postpone and accept the minority "ought to pass" as amended.

I am sure, as Mr. Kelleher said, that the average working person and the average so-called little person -- and I consider myself one -- in this state would favor this bill as amended.

The SPEAKER pro tem: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker, Members of the House: Listening to the debate on this, I feel that this is a grand opportunity for the members of the House to express their feelings with regard to this liberal feeling that has been spreading around with regard to paroling criminals. I wouldn't have believed when I read the report of the committee that I would vote for the minority report, but I am going to just for this very reason.

I am opposed to paroling many criminals with as little excuse as we have for doing it, and if we could listen to some of the people in the Department of Mental Health and Corrections, we would get the impression that they feel that no person should ever be punished for any crime no matter how heinous it is, and I certainly do not agree with this, and I think this is one grand opportunity to express my feeling by my vote at this time.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Wheeler.

Mrs. WHEELER: Mr. Speaker and Members of the House: I agree with the previous speakers that murder is a horrendous crime. I do oppose the death sentence, and I also oppose mandatory sentencing.

I oppose mandatory sentencing in any case, because the mandatory sentence ignores the different circumstances in particular cases. People are different, one from the other, and the circumstances surrounding the commission of various crimes of the same kind are never the same.

Unless we are willing to have judgments made by a computer, some human being has to distinguish between a crime committed under one set of circumstances and the same crime committed under another. Judges have been charged with that responsibility since the beginning of organized society. I feel strongly they should continue to be charged with this responsibility.

If this bill is passed making sentences mandatory, I predict: One, there will be no more guilty pleas. After all, what does a person have to lose going to trial if the sentence is mandatory. Something like 70 percent of all criminal charges result in a guilty plea. If every case has to be tried, the next session of the legislature will not be faced with the request for one extra judge and an extra courtroom as we are now but for 15 extra judges.

Two, the cost of our jurors will more than double. We are already spending more than one half million dollars the biennium for jurors. I predict that if a mandatory sentence passes, the first case arising under the bill and a good many thereafter will result in people going to jail whom all reasonable people would agree ought not be in jail, and the scene of judgment making will move from the courtroom to the governor and council who are ill-prepared because of the lack of facilities to make the required judgment.

I personally know that many judges, perhaps all judges, will be delighted to see a mandatory sentence, although they know it is bad. I say this because they will no longer have to spend sleepless nights tossing and turning because of the awesome responsibility which is theirs to pass judgment which all men and women who know the fact will say is justice. Instead, this responsibility will pass to the governor and council,



and I hope that you will vote for the motion for indefinite postponement.

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

Mr. JALBERT: Mr. Speaker, Members of the House: One comment that the lovely lady from Portland made, Mrs. Wheeler, was that if this bill passes, from now on there will be no more guilty pleas. Could I ask any lawyer, is it my understanding that you cannot plead guilty to a first degree murder charge anyway in this state or any other state?

The SPEAKER pro tem: The gentleman from Lewiston, Mr. Jalbert, poses a question through the Chair to anyone who may care to answer if he or she wishes.

The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Members of the House: In answer to the question, no, you cannot plead guilty to first degree murder.

The SPEAKER pro tem: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Jalbert must have been reading my mind as far as the comments from the gentle lady from Portland, Mrs. Wheeler. I listened very carefully to her comments. I think they were addressed toward the subjects of other bills, including several which I had; namely, mandatory sentences. I don't feel that anybody would plead guilty to premeditated murder, and that is what we are talking about.

To repeat myself, I would hope that you would support the minority report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Portland, Mr. Mulkern.

Mr. MULKERN: Mr. Speaker, Members of the House: I am going to also speak in favor of the minority "ought to pass" report. I think for once that this state and this country should go on record as being opposed to this recent trend throughout the nation of more or less permissiveness toward the criminal. I agree that there are extenuating circumstances in many

cases that—but I feel that in the case of first degree murder where the—as it says in the bill, either expressed or implied and malice aforethought, that this type of crime should be subject to no parole.

As to the remarks by Mr. Talbot of Portland, I very rarely disagree with him, I have gone along with him on many things, but I disagree with him this time. I am very much abhorred — opposed to the Supreme Court's decision on abortion. I think life today is cheap. I think this sort of trend is very damaging to society, and I think for once that the State of Maine should go on record as being for once in favor of life; and you would do so by passing this bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Old Town, Mr. Binnette.

Mr. BINNETTE: Mr. Speaker, Ladies and Gentlemen of the House: After hearing the remarks of the gentleman from Perham, Mr. Bragdon, I think it is a good time now for us to pause and reflect. The way the trend is, we are catering too much to these people who have committed violent crimes.

In this bill here, we are not trying to make it unreasonable. We are only making it possible through this amendment to see that they do not get parole after they once get in prison for a heinous crime, which I think is too prevalent at the present time today. We can't seem to get through any gun laws that will be practical. Therefore, we have too many people on the spur of the moment who think nothing of disposing of another man's life.

So, I am very very much opposed to indefinite postponement of this bill.

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

Mr. CARRIER: Mr. Speaker, Members of the House: I didn't expect this report to create such a mental exercise this morning, but I did expect the people to spend a little time to probably digest some of the reasons why some of us signed against this report.

In the first place, let's make it clear that we signed against the bill because apparently three of us at least did not believe in the death penalty, but we do believe and we do recognize that something has to be done somewhere. The people of this state, your constituents and mine, are asking, they are begging, they are hollering for something to be done in the law and order field. Now, whether this is the best solution, I don't know, but I happen to believe in it.

I happen to believe that if people on murder — and we don't have to go to premeditated murder or anything else. If you know the definition — and I believe that most of you do — between murder and manslaughter — and the degrees of murder doesn't matter too much because whether you murder one way or the other, it is still murder — that actually this is what we are concerned about today; and I can only say to you — and knowing most of you but not knowing your personal positions but I do happen to know the position of Representative McMahon on this as to the effects of this bill, because I am also very close to the people who got hurt in the situation which he mentioned here so clearly and ably today.

However, I do believe that — I do believe, in opposition to others that have said here — I do believe that mandatory sentencing is good in certain circumstances. I have opposed mandatory sentences in cases on first offense, but I do agree that sometimes mandatory sentences is the best thing that you can have on second offenses.

Now, the reason why the judges oppose this mandatory sentencing is because they want to have the whole say about this. Well, I say to you that some of them should not have the whole say about it. Many people in this state are not satisfied with the judicial system in this state, and it is not the courthouse that does it, it is not the money that does it, it is the people that are put in there to do the job, and they are not doing it. Some of them are not doing it, some of them are doing great jobs. So let's separate the real ones from

the other ones and let's face the facts.

Actually, it was also said that the governor and the council are not prepared by lack of facilities to make a decision. Well, I don't know what kind of facilities we are talking about, but you can draw your own conclusions. I think that they are mentally very able to do these decisions, probably much more able than some of the judicial system.

Now, I submit to you that this bill here — and I support it very strongly — that mandatory sentencing with no parole, I think this is the solution to some of these crimes. Now, whether people will agree — modern penologists will not agree that this is a deterrent. I do not agree with modern penologists, the ones that I know, because if they were ever affected — and I am telling you almost that if they were ever affected or very close to their families, that they would change their position over night on some of these decisions and these beliefs that they have.

So, I hope that you in good judgment and after you have thought it over and whatever you decide on, that you, if you share our conviction that mandatory life sentence is the solution, great, vote against indefinite postponement. If you don't, well, that is your privilege, and I hope that you come up with a better solution than we did.

The SPEAKER pro tem: The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker and Members of the House: I would like to quote one paragraph from the minority report of the Health and Institutional Services, a statement made by an eminent licensed M.D. and psychiatrist here in the State of Maine which I think is germane to the question this morning, and he states, "This concept challenges the basic philosophy of punishment for a felony or crime committed and replaces it by one of illness which must be dealt with with rehabilitative criteria by a person who is neither qualified nor

licensed to diagnose. In practice, this would include the following: A person with a considerable criminal record served time at Thomaston State Prison for attempted rape. After qualifying for parole, he goes out. In June of 1972, he is accused of aggravated assault. His probation officer claims that the parolee is fully rehabilitated. In September the fully rehabilitated parolee is caught at a police roadblock within less than an hour after allegedly killing one man, critically wounding another man and kidnapping a woman. What are the qualifications of those who appoint themselves to judge as to who is rehabilitated?"

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Members of the House: My dear friend, Mrs. Wheeler, mentioned in her presentation a few minutes ago that if you accept this amendment, that you will be under computer. But I would like to mention to you ladies and gentlemen of this House that I would rather be under a computer than after a man has committed premeditated murder and is let out within a couple of years and amongst the people, amongst you, and the people of the state, to start over again, that I would rather be under a computer.

The SPEAKER pro tem: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Members of the House: I had no intentions of speaking on this bill, and that is the truth, but I do feel strongly that from some of my experience, I am compelled to advise you folks how I feel.

I think perhaps more than many members of this body, I, having served on the council and on pardon hearings, have a feeling for the problem involved here that some of you may not have experienced. We, on the council, of course, do act on pardons, and during my two years six years ago, I recall at least three murder cases that were before us.

There is a great deal of different circumstances surrounding every case. No two are alike, and I want you to know that it is an awful responsibility to sit and decide what you are going to do with a portion of a person's life. I might even be more in favor of capital punishment in some cases than I would be in this bill as amended. I feel strongly that a no parole situation is too severe. It is inhuman.

I am not opposed to many mandatory sentences, particularly those of a finite nature where you tie something specific, a specific penalty, to a specific crime. I think it is the state's responsibility to evaluate what they feel are proper punishments; and, of course, this morning it is everyone's right to make this decision on this bill.

I am strongly for more severe sentencing. I believe that the evidence is clear that our courts are extremely lenient, and I am opposed to this and I would do anything I could to improve the situation, but I do not feel going to a life sentence that is irrevocable is the right way to go.

Now, if mandatory minimums were part of this, I could consider it. But to lock a person up and throw the key away goes too far. Although I would like to go in this direction, I regretfully tell you folks this morning that in good conscience and with the background and experience I have had, that I have to support the indefinite postponement motion.

The SPEAKER pro tem: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAWN: Mr. Speaker and Ladies and Gentlemen of the House: Before we vote this morning, I hope you will think, death and confinement is good for the other fellow, but I hope it never happens to me. In fact, I would rather be killed than be confined for a long period of time.

The SPEAKER pro tem: The Chair recognizes the gentleman from China, Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker and Ladies and Gentlemen of the House: My friend Mr. Morton mentioned the fact of locking someone

up and throwing the key away. Motions for mistrials stated that these people could go before the Governor and Council to be pardoned. I think it is time that this House reevaluated the situation. When we consider the people of the state and the protection of the people of the state, we have those who are so malicious that they kill others. We as responsible legislators, acting in the best interest of all the people, should take a firm stand here and try indeed to change the trend.

I also am mindful of the fact that possibly this sort of legislation will be hard to get through the other branch. But I do think this morning that we ought to take a firm stand and vote for the minority report. I had similar legislation in — mandatory sentences for breaking and entering. At this time, this is an extremely bad situation. People are crying to have something done. Someone steals from others, it is taking money out of everyone's pocket. If we are to have the free society and to abide by the first two sections of our State Constitution, we need to take action to preserve law and order.

The SPEAKER pro tem: The Chair recognizes the gentleman from Southport, Mr. Kelley.

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: I would like to speak to you about the fear of retribution. Many of you and most of you have raised families and you know that a youngster, you can very quickly teach them to mind with just one good swat where it will do them the most good. If you talk to them and try to be able to reason, it isn't always too effective. But a combination of fear of retribution and common sense works very well.

The fear of retribution also works against law and order. All you have to do is read the papers and travel around and watch what goes on. People do not dare stand up in court and testify against people they have seen commit crimes because they are afraid for the safety of their families and their own safety.

Mandatory life sentence in certain cases, I believe, is very necessary and I hope you vote against the motion on the floor for the acceptance of the minority report.

Mr. Gauthier of Sanford requested a roll call vote.

The SPEAKER pro tem: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker and Ladies and Gentlemen of the House: I rise to oppose the motion for indefinite postponement. I would hope that we would pass this bill as amended today. In my town, there are two people in Thomaston now for the crime of murder. And as I stated previously on one of the other bills, last Christmastime one of these murderers was out on this so-call going home furlough business, walking the streets of Skowhegan. I can truthfully say that a large number of people contacted me and asked, what is the legislature going to do to stop this?

I personally feel that if we were to pass this bill today as amended, that the vast majority of the people in the State of Maine would really be very happy to see that we have taken a definite step in this area. This boy who was home on furlough, he is a man now, went across his driveway and killed a young woman. He served 15 years, but now he is out every weekend, when he wants to come out, and he comes back to Skowhegan and walks the street. The people are not happy with this situation.

The other case that is in Thomaston now from my town, he will be eligible very shortly to come home on furlough or leave or vacation or whatever you want to call it. He killed a young boy and he was young at the time himself and he admitted to the court that the only reason that he killed the boy was that he wanted to see how it was to shoot a person and see him die. When people do these things, I think they deserve life imprisonment. I would not go along with the death penalty. But life imprisonment without parole, yes, because I think then some of these people might think twice before they kill.

Mr. Morton from Farmington said that this was too severe. Well I think it is quite severe on a person murdered, being murdered. And he can't come home on leave, he can't go out on furlough, he can't have visits down to where he is confined because he is confined under the ground. I don't think this is a bad bill at all. I hope today that we pass the bill as amended.

The SPEAKER pro tem: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker and Ladies and Gentlemen of the House: I would pose a question to the House. I am a little confused here. We talk about mandatory sentence. As I understand it, the judge and the jury have the choice of the pleading here. It can be first, it can be second, it can be manslaughter and so on. If they do go for first and punishable by life imprisonment, this would remove the chance for parole. I don't see where we get into mandatory sentencing here, because if the sentence is life imprisonment, this would merely remove the chance for parole and I would pose the question to someone, is this really mandatory sentencing?

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

Mr. CARRIER: Mr. Speaker and Ladies and Gentlemen of the House: It is my understanding that any write-up of the law which does not mention anything about parole is not a mandatory sentence. In order to make — and I stand to be corrected — a sentence mandatory, you do have to use such language as we have in here, without parole.

The SPEAKER pro tem: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker and Ladies and Gentlemen of the House: I rise to support the motion of the gentleman from Portland that we indefinitely postpone this measure. I agree with many of you that there are murders that are vicious and premeditated and I would not want to see parole. But there are other murders, other

murders of passion on the spur of the moment, through rage or jealousy, and these people often are not what we call criminal people. But under this amendment, and we are no longer dealing with the death sentence, that has been struck out, but under this amendment, regardless of whether the murder was premeditated or just one of those spur of the moment activities, it is imprisonment for life without parole.

On the vicious, organized, premeditated murder, I agree 100 percent. But let's leave something to the judgment of the Governor and Council or whoever is going to be passing on parole and pardons.

The SPEAKER pro tem: The Chair recognizes the gentleman from Norway, Mr. Henley.

Mr. HENLEY: Mr. Speaker and Ladies and Gentlemen of the House: Briefly, to answer to my good friend from Hampden. There is always gubernatorial pardons in cases that are outstanding. This has nothing to do with gubernatorial pardon. On routine parole, I am told that in Maine it is normally 13 years before they are available. This is in the case of a murderer who is convicted and sentenced and we say premeditated, well in order to come under the statute it must be premeditated or to the extent that it is considered that type of murder, not manslaughter but murder. And as I say, if the gentleman from Hampden feels sorry about some of these people, we can feel even sorer about the persons they murdered. They have no possibility of a second chance. If the person is young when this murder is committed, at some later time there might be availability for a gubernatorial pardon.

It seems to me that is the only leeway that we should allow. We must do something so that the murderer cannot feel, when he is sent to the penitentiary, that inside of 13 years, if he keeps his nose clean in prison, he can come back out. We don't want to keep our people back home in fear because of some of these people who threaten the jurists. They threaten

the people who convict them, they threaten the witnesses. They say, "Wait until I get out, I'll get you."

As Mr. Carrier and Mr. Gauthier and some of the others have stated, I think that we owe it to the people of the State of Maine and also I think we owe it to the deterrent part of this type of crime. Sure, it is going to be tough on that person who murders. That is what we want to make it, tough, so that they will think twice before they will premeditatedly commit another murder or any murder. I hope that you will vote no on the indefinite postponement and then accept the minority report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Camden, Mr. Hoffses.

Mr. HOFFSES. Mr. Speaker and Ladies and Gentlemen of the House: I feel compelled to speak on this particular legislative document, having represented that area of the State of Maine where the prison is located, where all of the hardened criminals, murderers and all of those others who have committed major crimes against society are housed. I will grant you that we have bent over backwards to do everything possible for the protection of the accused and for those minority. I think that the time has come when it is time for us to consider the majority. All too often we turn the radio on or we are downstreet and the first person who comes along says to us, have you heard that so and so has escaped from the State Prison? No, I hadn't. Well, he escaped at such a time and they are warning us that he is dangerous. Now, this means that the people down in our area, and it is not confined to one county but three or four counties in the vicinity of the State Prison, have to double their precautions to protect themselves and their property against these hardened criminals who have escaped or who have been let out for the purpose of having weightlifting contests in the neighboring town or things of that nature or have been let out for weekend furloughs. These are men who are hardened criminals.

I have been in that institution on several occasions and I know

what they look like, I know what they act like and I know what they are. And I accept them for what they are. If we are going to continue to condone this type of business of letting these people out and letting a lifer out to again mingle with society, there is something vastly wrong. I think it is high time that you and I, as members of this legislature and representatives of the people of the State of Maine, should give them some consideration. And I mean by "them," the ordinary, law abiding, working, taxpaying, citizens of the State of Maine, who is in fear of his life and of the lives of his family when we let up on all of the controls which we have of these criminals and let them free in society.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalburt.

Mr. JALBERT: Mr. Speaker and Ladies and Gentlemen of the House: I am on my feet mostly because of the fact that the mandatory jail sentence being batted about, and I might as well get a few more words in as to how I feel about that on the record. If you would go down to the Attorney General's office and you would see the attorney, Richard Cohen, the head of our Criminal Division, he will very quickly tell you that we do not anywhere near have the hard drug problem in Maine today that we used to have. We might have it in one or two areas, but believe me, it is fast disappearing.

I am talking now about hard drugs. I know why, because I was told why by the people who sold the hard drugs, New Years Eve, after one of my very infrequent soirees after dark. I ran into a few of these jokers, talked to them, they admitted that they were in the business, I knew anyway, of drug peddling. They also told me that they had been chased into New Hampshire and Vermont.

When I put in this bill, I knew just exactly what I would run into. I knew exactly what I would run into on the other side of the alley. And I would like for you just to look at the report. Just cast your eyes on that report, and just figure

out the occupations of people. I am not against that at all, but just look at the report.

I put in a bill here for mandatory jail sentences for arson. It is strange that this should come up because I was discussing this with a few good friends in the legislature last night. It will take time. We will have a bill for mandatory jail sentences for arson, which is a horrendous crime and almost impossible to prove. But once it is on the books, they will be chased out. The siding and roofing boys were chased out by Representative Cote's bill. They have gone to Manchester, New Hampshire and Vermont, they admit it.

As far as this particular bill is concerned here, it will take time, probably, but it will come. And I can't help but recall an incident that happened many many years ago going down into — we went down to Thomaston to play ball. I got on first base and the second ball thrown was a little wide, so I took off for second. When I stole second, I just happened to chat with the second baseman on the team at Thomaston and I said, "What are you doing here?" He said, "I am here for burglary, and you had better stay here because the guy on third slit his wife's throat." Believe me, I almost went back to first base.

But seriously, and this is serious and this is fact. Many years ago a very dear friend of mine was in a restaurant talking to the counter-man. Two servicemen were in the restaurant. Tom thought he was going to Maine. One of the men sat in the front seat and I can bring you the article in the newspaper. The other one sat in the back. The testimony was this by the one sitting in the front seat, that the man in the back had just put a gun right to the back of a fellow's head and bang! He had three kids. The fellow got out and he is now in Dannamora serving another sentence for murder.

I have talked, whispered briefly to the gentleman from Farmington, Mr. Morton, who served very honorably, representing our district at home, on the Governor's Council. The Governor is in command of the pardons, all of them. The Coun-

cil can initiate it. They can vote seven to nothing on any and all pardons, and if the Governor says no, that is the end. He will be the first one to tell you that. There is nothing at all that they can do about it. Appointments might be a little bit different.

In any event, this measure here is a worthy measure. It will take time but it will come. The time for us to assert ourselves is now by not killing this measure.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I would like to make a few comments in relation to this bill before us. I thought the bill had a lot of merit, and as it is watered down with the amendment, I still think this is a step in the right direction.

I think this prison of ours has got to be better than some hotels and I would like to enlighten you on a little case that I was involved in. I was in Rockland staying at one of the better hotels and I had my wife with me, and after dark I was looking for a chance to go downtown and I couldn't think of any other way, so I told her I was going over to visit the prison. I went over there to supper.

The hotel where I was staying, a roast beef supper was about \$8.50 and the service wasn't anything extra, but I went over there and had supper and I had roast beef and apple sauce cake and I had as many helpings as I wanted and so did the prisoners. So I considered that better food than I could have gotten at what I considered a very good hotel in the City of Rockland. They also let me have a little liberty that the others didn't have, but I did.

What I have drawn from this conclusion is that this particular prison wouldn't be a bad place to spend your life. They had lots to eat. They had a pretty good place to have their church services, and another thing I might point out to you, walking across the courtyard I viewed the chapel, a very nice chapel for the Catholic people and the Protestant people, and walking

across the courtyard I said to Mr. Robbins, "Gee, I was impressed by the chapel. It is such a nice one, but where do the Jewish people have their services?" He stopped short and said, Mr. Dudley, I have been here quite a while and we don't have a Jewish boy in here." So I thought that was worthy of mention.

Let me say that I also took the time while I was in Europe to see what their system was. Let me tell you, over there the food they seemed to be getting was bread and wine and plenty of it, but they didn't have any beefsteak and they didn't have any chicken and stuff like they feed them in our prison. So I view this prison of ours as not too bad a place at all. It wouldn't be a bad place to spend your life. But I think the time is coming when we have got to get more serious than just giving them life because life isn't deterrent enough.

Some of the southern states that do have it, the proof is in the pudding. You see how many bank robberies they have had in the last 50 years in Georgia, and I think you will find that there isn't any, unless it has happened very recently, but people from Georgia have gone to New York and New Jersey and Connecticut and rob banks. The proof to me is, why should they drive clear to New York or New Jersey to rob a bank when they live in Georgia? It seems to me that it is because Georgia strings a rope around their necks and drops the scalpel and this is a deterrent. They don't have to hang many people, as I understand it, but it does seem to be a deterrent. The time is coming when you need a deterrent of some sort because this is gaining each year.

I hope you people will be using your best judgment this morning when you accept the minority report and don't vote to indefinitely postpone this bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Camden, Mr. Hoffses.

Mr. HOFFSES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take exception to the remarks made by the

gentleman from Enfield, Mr. Dudley, and his implications that our hotel rooms are expensive, our food is expensive and our service is very poor. I would like to call the gentleman's attention that that is not actually the case.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I would like to apologize to the gentlemen from down there. I hope I didn't say it that mean. I thought I said it was better than a hotel, better at the prison than it was at the hotel. I didn't say the hotel was that bad; at least I didn't mean to. I meant to say that I thought the service there and the food was better.

The SPEAKER pro tem: 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. 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 pro tem: The pending question is on the motion of the gentleman from Portland, Mr. Talbot, that this bill "An Act to Make Murder Punishable by Death," House Paper 979, L.D. 1293 and all accompanying papers be indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

### ROLL CALL

YEA — Bustin, Chonko, Clark, Connolly, Cooney, Cottrell, Curran, Dow, Dunleavy, Farley, Farnham, Goodwin, H.; Goodwin, K.; Haskell, Hobbins, Huber, Jackson, LaPointe, LeBlanc, Lewis, J.; Mahany, Martin, McKernan, McNally, McTeague, Mills, Morin, V.; Najarian, Norris, Perkins, Peterson, Pontbriand, Santoro, Smith, S.; Susi, Talbot, Tierney, Wheeler, Whitzell.

NAY — Albert, Ault, Baker, Berry, G. W.; Berube, Binnette, Birt, Boudreau, Bragdon, Brawn, Brown, Bunker, Cameron, Carey,



Carrier, Carter, Chick, Conley, Cote, Cressey, Crommett, Curtis, T. S., Jr.; Dam, Davis, Deshaies, Donaghy, Drigotas, Dudley, Dunn, Dyar, Emery, D. F.; Evans, Farrington, Faucher, Fecteau, Finemore, Fraser, Garsoe, Gauthier, Genest, Good, Greenlaw, Hamblen, Henley, Hoffses, Hunter, Immonen, Jacques, J albert, Kelleher, Kelley, D. B.; Kelley, R. P.; Keyte, Kilroy, Knight, Lawry, Littlefield, Lynch, MacLeod, Maddox, Maxwell, McCormick, McHenry, McMahon, Merrill, Morin, L.; Mulkern, Murchison, Murray, O'Brien, Palmer, Parks, Pratt, Ricker, Rollins, Ross, Shaw, Sheltra, Shute, Silverman, Simpson, L. E.; Snowe, Stillings, Strout, Tanguay, Theriault, Trask, Trumbull, Tyndale, Walker, Webster, White, Willard, Wood, M. E.

ABSENT — Briggs, Churchill, Ferris, Flynn, Gahagan, Hancock, Herrick, Kauffman, LaCharite, Lewis, E.; Rolde, Smith, D. M.; Soulas, Sproul.

Yes, 42; No, 94; Absent, 14.

The SPEAKER pro tem: Forty-two having voted in the affirmative and ninety-four in the negative, with fourteen being absent, the motion does not prevail.

On motion of Mr Gauthier of Sanford, the Minority "Ought to pass" Report was accepted.

The Bill was read once. Committee Amendment "A" (H-472) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act Relating to Discovery Procedures in Workmen's Compensation Hearings" (H. P. 1157) (L. D. 1490) reporting "Ought not to pass."

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland  
— of the Senate.  
Mrs. BAKER of Orrington  
WHITE of Guilford  
KILROY of Portland  
WHEELER of Portland

Messrs. PERKINS

— of South Portland  
CARRIER of Westbrook  
McKERNAN of Bangor  
HENLEY of Norway  
GAUTHIER of Sanford  
— of the House.

Minority Report of the same Committee on same Bill reporting "Ought to pass."

Report was signed by the following member:

Mr. DUNLEAVY  
— of Presque Isle  
— of the House.

Reports were read.

On motion of Mrs. Baker of Orrington, the Majority "Ought not to pass" Report was accepted and sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act Relating to Grounds for Judicial Separation" (H. P. 1224) (L. D. 1594) reporting "Ought not to pass."

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland  
— of the Senate.  
Mrs. BAKER of Orrington  
KILROY of Portland  
WHEELER of Portland  
WHITE of Guilford

Messrs. PERKINS  
— of South Portland  
CARRIER of Westbrook  
HENLEY of Norway  
GAUTHIER of Sanford  
— of the House.

Minority Report of the same Committee on same Bill reporting "Ought to pass."

Report was signed by the following members:

Messrs. DUNLEAVY  
— of Presque Isle  
McKERNAN of Bangor  
— of the House.

Reports were read.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker, I move the acceptance of the Majority "Ought not to pass" Report.

The SPEAKER pro tem: The gentlewoman from Orrington, Mrs.