

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

SENATE

Tuesday, February 12, 1974

Senate called to order by the President.

Prayer by the Rev. J. F. Titus Oates of Camden:

I ask your prayers for this nation, for the State of Maine, for all engaged in government. Bless this Senate, guide it in all its consultations, may it in all things advance Thy glory and the safety and the welfare of Thy people. Lead us into peace and happiness, into truth and justice. Help us to set loyalty to the right above all else. Grant that the importance of our work may not fill us with self-importance but it may keep us humble and eager to serve the people we represent. Give us wisdom, clarity of thought and truth in our speaking. Help us to set the interests of others first and faithfulness to you above all else. Grant us to make decisions and to be leaders that stand for all that would please Thee, our only master and our saviour, Jesus Christ. Amen.

Reading of the Journal of yesterday.

Papers from the House Joint Order

WHEREAS, the family of Frederick J. Thompson of Caribou has been selected the FHA Farm Family for the year 1973; and

WHEREAS, the Farmers Home Administration award is given to increase awareness, encourage greater accomplishment and emphasize outstanding FHA family contributions to agriculture and the rural community; and

WHEREAS, the Thompsons have been able to develop a small farm operation into a profitable family business through hard work, good farm practices, mechanization of machinery, updating buildings and wise use of credit; now, therefore be it

ORDERED, the Senate concurring, that the Members of the House of Representatives and Senate of the 106th Legislature of the State of Maine take this opportunity, while assembled in special session, to extend our congratulations to Mr. and Mrs.

Thompson and family of Caribou upon their outstanding achievements and offer, with pride, our best wishes and support for continued success and accomplishment; and be it further

ORDERED, that a suitable copy of this Joint Order be prepared and transmitted forthwith to the sponsor for presentation to the Thompson family on behalf of the Legislature.

Comes from the House, Read and Passed. (H. P. 1961)

Which was Read and Passed, in concurrence.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence.

Orders

On motion by Mr. Huber of Knox,

WHEREAS, it is said "A good talker or writer is only a pitcher. Unless his audience catches him with heart and mind, he's defeated"; and

WHEREAS, in 1948, Dean Ernest C. Marriner stepped to the mound at Waterville to deliver "Little Talks on Common Things", a successful, entertaining and informative WTVL Radio program, now in its 26th consecutive year and still winning new friends and listeners; and

WHEREAS, he understands the true meaning of many beautiful things on earth and uses them in broadcasts and writings that he might exhibit his heart to his fellowmen and give greater value to human life; and

WHEREAS, there is no greater privilege for the Legislature of the State of Maine than that of paying tribute to distinguished and talented citizens of the State who have from time to time made such a significant mark and impact for the benefit of their fellow citizens; now, therefore, be it

ORDERED, the House concurring, that the members of both branches of the One Hundred and Sixth Legislature of the State of Maine pause in the deliberations for this First Special Session to take notice of Dean Marriner's 1000th radio broadcast, given on February 10, 1974, and to pay tribute to this distinguished citizen whose interests and concerns for many years

have not only consistently bettered the relations of his community, but provided wisdom and mature judgment on matters of wider interest throughout the State; and be it further

ORDERED, that suitable copies of this Joint Order be transmitted forthwith to Dean Marriner and his sponsor, Keyes Fibre Company, in honor of this occasion. (S. P. 901)

Which was Read.

The PRESIDENT: The Senator has the floor.

Mr. HUBER: Mr. President, this order calls attention to an historic event for Maine broadcasting, program 1000 of "Little Talks on Common Things" by Dean Ernest Marriner of Waterville and Colby College. Obviously this occasion means a lot to those of us who have known Dean Marriner over the years, those of us who have worked for and with Carleton Brown, owner and operator of WTVL in Waterville, and those of us who attended Colby.

Colby has contributed a considerable number of men and women to Maine State Government, serving in various capacities, and Ernest Marriner, a Colby graduate, is one of them. Dean was a member of the State Board of Education from 1949 to 1972 and twice its chairman. And Mr. President, I can't resist calling your attention to the fact that Dean Marriner was the chairman of the state-wide commission appointed by Governor Reed in 1964 to present the legislature with a plan for the state archives. Dean became chairman of the Archives Board when the archives became an agency of state government in 1965, and he still is a member of the advisory board.

Dean Marriner will be 83 this year. He is the author of four books on Maine history and continues to be very active in his community. He is the College Historian, President of the Waterville Historical Society, a trustee of the Maine League of Historical Societies and of the Waterville Public Library, Chairman of the Board of Trustees of Thomas College, and a member of the Central Maine Library Council. "Little Talks on Common Things" is written and broadcast by a very uncommon man.

Mr. President, Dean Marriner is in the

chambers this morning, and I would hope that he might address this body.

The PRESIDENT: Is it now the pleasure of the Senate that this joint order receive passage?

Thereupon, the Joint Order received Passage.

Sent down for concurrence.

The PRESIDENT: The Chair would ask the Sergeant-at-Arms to conduct the Honorable Guest of the Senate Chamber this morning, Dean Marriner, to the rostrum for any remarks he might care to make.

Thereupon, the Sergeant-at-Arms escorted Mr. Dean Marriner to the rostrum where he addressed the Senate as follows:

Mr. MARRINER: Mr. President and Members of the Senate: I assure you that I deeply appreciate this honor, and I especially appreciate it because it is the kind of thing that is usually reserved for a man until after the undertaker has taken care of him. It is nice to have these things while one is still around among his fellow men.

During the twenty-five years of this program which I want to explain has persisted only for the same reason that the old fellow over in Rome, Maine, when he was given the Boston Post cane explained to the newspaper reporter: The reporter asked him, "To what do you attribute your long life?" And he said, "Well, I just kept on living." And that is all there is about this program; it has just kept on going, that's all. But during those twenty-five years I have learned this, that there has never been a time in the history of our state that people have not complained about taxes. More than sixty years ago there was the old lady over in Oxford County who remarked "Yes, taxes is high. Of course, taxes is high. Just look at the modern improvements: corncake walks, indecent lights and cemetery plumbing; no wonder taxes is high."

Then much more recently there was a man up in Somerset County, not many years ago, who said "I don't mind paying my exercise tax, but I heard a fellow the other day talking about sintax, and I tell you we are going to be in real trouble if them fellows down in Augusta pass a tax on sin."

Well, the old fellows of my age, of course, are garrulous. We all talk too much. I have talked too much for eighty years, and I ought to have learned a lesson long ago, because a lesson was taught me in my father's store over in Bridgton. One day a man came in, and father wanted to inquire about his daughter. He said, "Where's Lilly? I haven't seen Lilly all this fall." The man replied, "I have sent Lilly down to Westbrook Cemetery to study domestic silence." Now, I submit to you members of the Senate that all of us know people—we might not want to name them publicly, but we all know people who we think ought to have studied domestic silence. And if one is going to study domestic silence, what better place is there to study it than the cemetery. And again, I thank you very much for this honor.

Thereupon, the Sergeant-at-Arms escorted Mr. Marriner from the rostrum to the rear of the Chamber amid the applause of the Senate, the members rising.

On motion by Mr. Hichens of York,

WHEREAS, the girls of Marshwood High School basketball team are the undefeated league champions for southern York County; and

WHEREAS, they possess the pride of performance which underlies every attempt and has made a winning effort the least they would settle for; and

WHEREAS, the activities and attitudes of this distinguished group of girls reflects great credit upon the individual players and their coach and have brought honor to their school and State; now, therefore, be it

ORDERED, the House concurring, that the Members of the First Special Session of the One Hundred and Sixth Legislature, now assembled, hereby commend and congratulate the Marshwood "Hawks" of School Administrative District Thirty-five and their coach, Miss Diane Rowell, for their outstanding achievement in the field of sports and wish them continued success in such worthy athletic endeavors; and be it further

ORDERED, that a suitable copy of this Order be prepared for presentation

by the sponsor on behalf of the Legislature. (S. P. 902)

Which was Read and Passed.

Sent down for concurrence.

Committee Reports

House

Leave to Withdraw- Covered by Other Legislation

The Committee on Liquor Control on, Bill, "An Act Relating to the Sale of Malt Liquor at Central Maine Center in Lewiston." (H. P. 1709) (L. D. 2102)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Referred to 107th Legislature

The Committee on State Government on, Bill, "An Act Creating a Division of Youth Services within the Bureau of Corrections." (H. P. 1795) (L. D. 2275)

Reported that the same be Referred to the 107th Legislature.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence and the Bill Referred to the 107th Legislature.

Ought to Pass

The Committee on Transportation on, Bill, "An Act Relating to Motor Vehicle Accident Reports." (H. P. 1874) (L. D. 2373)

Reported that the same Ought to Pass.

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act to Repeal Reference in Law that University of Maine Officers and Employees are Unclassified Employees of State of Maine." (H. P. 1775) (L. D. 2247)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-676).

The Committee on Taxation on, Bill, "An Act to Clarify Certain Property Tax Statutes." (H. P. 1796) (L. D. 2276)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-674).

The Committee on Transportation on, Bill, "An Act Providing for Restricted Motor Vehicle Operator's License." (H. P. 1755) (L. D. 2214)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-677).

Come from the House, the reports Read and Accepted and the Bills Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act Relating to Failure to File Annual Reports of Corporations." (H. P. 1881) (L. D. 2391)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1959) (L. D. 2493)

The Committee on Judiciary on, Bill, "An Act Relating to Certified Copy of Regulations Promulgated by Commissioner of Inland Fisheries and Game as Evidence." (H. P. 1696) (L. D. 2089)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1954) (L. D. 2489)

The Committee on Natural Resources on, Bill, "An Act Clarifying the Provisions of the Waste Water Construction Grant Program and Waste Water Pollution Control Planning Program." (H. P. 1713) (L. D. 2106)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1960) (L. D. 2499)

Come from the House, the reports Read and Accepted and the Bills, in New Draft, Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills in New Draft Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill "An Act Relating to Deductions from Sentences of Inmates in County Jails." (H. P. 1839) (L. D. 2331)

Report that the same Ought to Pass.

Signed:

Senator:

TANOUS of Penobscot

Representatives:

WHEELER of Portland

KILROY of Portland

BAKER of Orrington

WHITE of Guilford

PERKINS of So. Portland

McKERNAN of Bangor

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Representatives:

CARRIER of Westbrook

GAUTHIER of Sanford

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were Read and the Majority Ought to Pass Report of the Committee Accepted in concurrence.

Thereupon, the Bill was Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Nullification of Criminal Records." (H. P. 1725) (L. D. 2169)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1956) (L. D. 2491)

Signed:

Senators:

TANOUS of Penobscot

SPEERS of Kennebec

Representatives:

PERKINS of So. Portland

WHITE of Guilford

DUNLEAVY of Presque Isle

McKERNAN of Bangor

WHEELER of Portland

KILROY of Portland

GAUTHIER of Sanford

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Representatives:

BAKER of Orrington

CARRIER of Westbrook

Comes from the House, the Majority report Read and Accepted and the Bill in New Draft Passed to be Engrossed.

Which reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, might I ask for an explanation from some member of the committee? What this bill appears to do is to expunge completely the records of convicted felons who may subsequently be pardoned and, if this is true, may I have the rationale behind it?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has asked a question through the Chair which any Senator may answer if he desires.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: L. D. 2491 is an act which relates to pardons being granted by the Governor and Council. Now, there was an original bill — the L. D. on it, I guess, is 1725, and if you will check the original L. D., the new draft is much different than the original L. D.

Under the present system, when the Governor and the Council grant a pardon to an individual, apparently the pardon is valueless because of the individual's record, so that a person who has been given a full and free pardon by the Governor and Council doesn't receive the benefit of the pardon. In effect, he receives no pardon whatsoever because of the ability for any individual to obtain the records of that person, and certainly an employer or anybody else takes into consideration the record which he has, even though he has been pardoned. So in fact, what we have done is that we have granted permission for pardons to be granted to people, and yet they receive no benefit from the pardon.

Now, this particular new draft, if I may refer to it, was prepared by Mr. Cohen in the Attorney General's office along with the assistance of the Department of State Police, and they approve of this new draft because this removes from the original draft the objections which they had.

Now, in effect, what happens if an

individual is granted a pardon under this new draft is that the court records and the police records would be expunged. The effect of expungement is noted in 2491. It tells you what the effect of expungement means. The records are not destroyed. And this is one of the items that the State Police and the Attorney General's office were greatly concerned with. They didn't want the records destroyed. Now, the effect of expungement as defined within this act merely means that the record will be noted. The criminal records and court records will have some form of a stamp on them as being expunged and these records are not to be disseminated to anyone, any individual, other than for the use of the courts and the police in the investigation of crimes. For that reason, they want to retain the records for their own personal use. These will be the records of arrest, investigation records, or any other information which they may have available. They want to retain this. But yet, in order to give some effect to the pardons, it prevents dissemination of this information to any unauthorized individual and, therefore, fulfilling the intent of the law of pardons. For that reason, I ask that you support the Majority Ought to Pass Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I appreciate the intent of the sponsor and the committee in studying this bill and their report, but I can tell you this morning that it doesn't mean a thing.

There was a case several years ago of a young man, a very close acquaintance of mine in my town, who was sent to the Boys' Training Center. I went to the judge and argued the youngster's case before him, and he said "Well, don't worry about it. It is probably good for the youngster to be stopped now before he gets into worse trouble. His records will never be shown outside of the local police and the Boys' Training Center will not hurt him in the future as long as he behaves himself." I took the judge's word, and a few years later the young man was at draft age and the parents came to me in tears. They said "The man from the draft board came to us

today and we asked him why our son was rejected from going into the service. He said 'I don't have to tell you why, because you know what your son did and why he can't go in the service.' " So here is the first infringement against the ruling that the records would not be disclosed.

A few years later the young man applied for a state job. He had to fill in a questionnaire where it said "Have you ever been in trouble with the law?" In all sincerity he left it blank because he couldn't truthfully say no. He went before the examining board and they asked him why it was, so he explained, and they told him he was foolish to even apply for the job. He said "Well, I have been told by the Attorney General's office, through the representative in my town that those records would have nothing to do with my future employment as long as I behaved myself." And the inspector said, "Well, don't you kid yourself. We have to look into these things." And he said, "We are sorry because you told the truth, and we have got to turn you down, but that is the way it is."

It is the same way with these men here. They may be pardoned, their records may be expunged, but if they sign a statement and tell the truth, they have to admit that they have been in trouble with the law, and it is going to be used against them.

On the other hand, a man who employs one of these former prisoners, even though he has been pardoned and his records have been expunged, in all fairness to him, I think he should be able to know what has gone on before. If he is a decent sort of man, he will overlook these things and hire the man anyway on his integrity and the person he is at that time. But if the fellow should commit another crime, his records are all expunged and so he goes in as a first offender even though he has been guilty of that crime before.

I have been brought up to forgive and forget, but I think in a case like this, when you face the facts, that this bill should be defeated. So I rise in opposition to the motion.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I hate to disagree with my good friend from York, Senator Hichens, but the effect of expungement, as I explained a moment ago, the courts nor the police departments physically destroy this evidence. It is expunged, or stamped "expunged." Presently, of course, there is no law whatsoever on the books relating to a pardon except that the pardon is granted and the record remains there and is forever used against that individual. So a pardon is really technically invalid under our present law.

This also provides for a penalty for anyone who disseminates this information. It is a criminal violation, a misdemeanor with up to a \$1,000 fine or 11 months imprisonment for any court clerk, court official, police office, or anyone who would violate the provisions of the pardon law or expungement law as described in this bill. Up to now we have had no such thing. So in answer to your comment, Senator Hichens, that these items do get out, perhaps they do now because there is no prohibition in the law restricting this information from being disseminated. This gives that prohibition, or at least the authority to penalize anyone who would reveal this information.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Henley.

Mr. HENLEY: Mr. President and Members of the Senate: I appreciate what is being attempted here, but I am still critical of the wording and I would hope that it could in some way be changed.

Now, I am in partial agreement that there are, of course, situations where a pardoned person is discriminated against for employment, for certain office-holding jobs for which he or she might become eligible, but in the meat of the bill here it says, "A granting of a full pardon shall mean that the person shall for all purposes be considered as never having been arrested or convicted for the offense for which such pardon is granted." Now, I am not in complete knowledge of just exactly under what circumstances the Governor and Executive Council will grant pardons. It

seems to me that the Governor has a tremendous breadth and latitude in his right to pardons.

As my friend, Senator Hichens, says, I have always felt — I suppose it is a good old pioneer idea, that we shall pay our bills. If a person in his younger days does violate the law of the State of Maine and serves some time, and then the Governor and Council, in their wisdom, decides that they have paid enough and that the circumstances under which they committed the crime originally were because of extreme youth or excitement, etc., and they pardon him, I feel that nevertheless the law was broken and the crime was committed. And I think that under certain circumstances, the fact that they committed this crime, regardless of the pardon, should be available.

There should be another way to approach this, through anti-discrimination laws. It seems to me that we did have a law before us stating that a pardoned person or a person having served time and paid his penalty for a misdemeanor and so on, that it could not be used against him in employment, etc. But I do feel that this bill, the way it is written, really does more, the effect is greater, than A, B, and C so stated here, because it says "for all purposes". If there is any way to change it to make it more acceptable, then I might consider it. Otherwise, I shall have to oppose it strongly.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Members of the Senate: In listening very attentively to the explanation by the Chairman of the Judiciary Committee, Senator Tanous, it appears a little ambiguous in one respect, at least in looking at the part under Section B, under Civil Rights, which states "to restore to such persons all civil rights and privileges lost or forfeited as a result of any conviction, the records with respect to which have been expunged."

Now, in one breath we are saying that we are clearing this man's record entirely and nobody shall discriminate against him insofar as job opportunities or anything else that he may decide to do because of this particular violation. And

yet, in the other section we are speaking about "Any person who shall wilfully violate any provisions of this section shall be punished by a fine of not more than \$1,000 or by imprisonment of not more than eleven months." There seems to be a dual intention here somewhere. It just doesn't seem clear to me that in one breath we can say that now you have received the Governor's pardon you are free and clear to do anything you so desire as though this has never happened, and yet if anybody in the business community or any credit agency, or things of this nature, uses this information in the future, then this person is wilfully using this information to damage this particular person. Then why should the courts set aside, that is, the judicial system, have the option of expunging this record and use it for their own information, and yet anybody else who might use this information might be sued or have a fine levied against them?

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: In reference to the pardon procedure that presently takes place, they are only granted after very careful investigation by the Probation and Parole Department. That careful investigation is made available to each member of the Executive Council and to the Governor. The individuals have to come up here and put on a case and demonstrate that they deserve it. But I think ultimately the pardon is the completion of the rehabilitation process.

I see no good reason, because some young person gets involved in a situation with a violation of law, that he should be permanently stigmatized, and that is what a pardon does: it sort of undoes the permanent stigma that is attached to a conviction of a crime. And I think if we really believe in rehabilitation, we would support a measure like this. I will be very frank in saying I would support a broader measure. I think if someone is found innocent of a crime, I think his record ought to be eradicated. Under our present law it is not, and people are unduly hurt who are arrested and found innocent because the record remains at the police department, and it is often

circulated throughout police agencies, which is wrong. This is a very moderate type measure and I think it makes a great deal of sense. I hope you would support the Majority Report.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Members of the Senate: In reference to the remarks made by the Senator from Cumberland, Senator Brennan, if this be the case, that this stigma be eliminated entirely, then should it not be eliminated at the state police level as well as in the judicial court system, and destroyed entirely if this person is granted a pardon?

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I would support a ratification as broad as possible, but again you have to be practical here in the Maine Senate. This is to achieve just a moderate goal at this time, and I think it makes sense to pass the bill as it is right now.

The PRESIDENT: Is the Senate ready for the question? The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: Due to the debate and the importance of this, I ask for a roll call.

The PRESIDENT: A roll call has been requested. The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I would like to answer my good friend Senator Minkowsky's apprehensions about the bill. Now in section three, the penalty doesn't apply to the employers or the bonding companies that may have access to this information through some illegal means. The section three penalty provision applies to the court officials or police officers who might be willing to do a friend a favor by revealing information regarding a particular person who has been granted a pardon. That is to whom the penalty applies. It doesn't apply to employers or other agencies.

As was mentioned, and I repeat again, that under the present system the granting of a pardon by the Governor and Council is valueless; nobody receives any benefit from it. I have checked with the Governor's Council and, believe me, they don't grant pardons easily. Usually, if a person has more than one conviction, it is a rarity that that individual obtains a pardon. It is only under certain unusual circumstances. Pardons relative to motor vehicle violations, yes, I mean these are quite prominent in the Governor's office and the Council, but certainly relative to crime as we recognize crime per se, very few pardons in this area are granted. I will give you an example for instance: this young girl at the age of 18 years old, or 17, was convicted of shoplifting, the one violation in her entire life. She went to school, college, and received a teacher's degree. She has been attempting to get a job for the last two years, and each time they conducted a background search and found she was picked up and arrested for shoplifting, and yet was granted a pardon. This girl has been denied employment, and there is no question in my mind and her mind, and the minds of anybody that knows the situation, that the one reason she is denied this is because of that conviction for which she was granted a pardon. Now either we put some teeth in the law of pardon or we just permit pardons to go on as they have been, being valueless to any individual receiving such a pardon. I feel that we should be forgiving, especially in circumstances of this nature, and pass the bill. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: I think this bill goes to the direct philosophy of how we feel a pardon should be granted, whether or not we feel pardons should be granted, and what it should mean if a pardon is granted. I think all of us would agree that if an individual is arrested and is prosecuted, is tried by a jury of his peers and is found not guilty, then I think the stigma, if you will, of having been through that experience, through that

trauma, should be eradicated from that individual's life as much as possible, because we are all innocent until proven guilty. And if we are not proven guilty, then we are innocent and we should be precisely in the same position that we were in before the incident took place.

I think that same kind of philosophy should apply to a pardon. An individual who is granted a pardon, to me, means that that individual is granted a full pardon and is excused by society for whatever action he was found guilty of having taken. It seems to me that included in that full pardon is the idea that the records of his conviction should not be made available and made known to individuals with really no business knowing those records if that individual has been granted a pardon. A pardon, to me, means that he should be put right back in exactly the same position he was in before the arrest, trial, conviction and serving of the sentence.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Roberts.

Mr. ROBERTS: Mr. President and Members of the Senate: This act isn't anywhere near as stringent or far-reaching as many. In Massachusetts, for instance, you have an expungement statute which was passed two years ago. This statute there takes care of all violations, not simply those that are involved with pardons, and that is based on a year. If someone goes for three years, I believe it is, without any violations, they have an automatic expungement of any misdemeanors. If they go five years following conviction on a felony, they are automatically expunged, their record is, as long as they have gone those periods.

Now, all we are talking about is a pardon here, and I believe, as it has been said here already three times at least, that if a pardon is going to amount to anything it is going to be a pardon that shouldn't carry a stigma of the conviction for the rest of the person's life, and that is practically what it does.

I feel and I, as you know, have had some experience in district court for five years, and I know there have been a lot of people who have made mistakes when they are relatively youthful, and yet those mistakes stay with them. They try

to get into civil service work and they are kept out, they try to get into the post office and they are kept out, and all because they have a violation. In many cases it is the only violation, and it was one that was done with a bunch of kids when they were small. It is true that even as a juvenile your actual trial and everything, and your name, is not used in the paper and so forth, however, the record is there and it gets around and the police send it around. If a person goes to the trouble and is able to get a pardon, and they don't come easily, I think the least that they can do is have a chance to have a completely clean slate. I hope you will support this.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is whether the Senate should accept the Majority Ought to Pass Report of the Committee in concurrence on Bill, "An Act Relating to Nullification of Criminal Records." A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is whether the Senate should accept the Majority Ought to Pass Report of the Committee in concurrence, on Bill, "An Act Relating to Nullification of Criminal Records". A "Yes" vote will be in favor of accepting the Majority Ought to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Greeley, Joly, Katz, Kelley, Marcotte, Minkowsky, Morrell, Olfene, Richardson, Roberts, Schulten, Sewall, Shute, Speers, Tanous.

NAYS: Senators Henley, Hichens, Huber, Wyman, MacLeod.

A roll call was had. 27 Senators having voted in the affirmative, and five Senators having voted in the negative, the Majority Ought to Pass Report of the

Committee was Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

**Senate
Ought to Pass**

Mr. Katz for the Committee on Education on, Bill, "An Act Relating to Transporting School Children to Other Than Public Schools." (S. P. 880) (L. D. 2466)

Reported that the same Ought to Pass.

Which report was Read and Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House

Bill, "An Act Relating to Jurisdiction of the Boxing Commission." (H. P. 1880) (L. D. 2390)

Bill, "An Act Relating to Organizational Change in Department of Transportation." (H. P. 1886) (L. D. 2396)

Bill, "An Act Relating to the Land Damage Board." (H. P. 1887) (L. D. 2397)

Which were Read a Second Time and Passed to be Engrossed in concurrence.

Senate

Bill, "An Act Repealing the Law Relating to Youth Community Activities." (S. P. 851) (L. D. 2419)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

Emergency

An Act Increasing Indebtedness of the Jackman Water District. (H. P. 1863) (L. D. 2357)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

Bill, "An Act to Clarify the Power of the Commissioner of Maine Department of Transportation and the Chief of the Maine State Police to Lower Speed Limits in Order to Provide Energy Conservation." (H. P. 1857) (L. D. 2350)

Tabled — February 8, 1974 by Senator Cyr of Aroostook.

Pending — Passage to be Engrossed.

Mr. Cyr of Aroostook then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-347, was Read.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE: Mr. President and Members of the Senate: I would like to see some other reasoning, other than a cursory explanation of this proposed amendment, to why we are dispensing with the point system. It seems to me that the point system was established for a definite purpose, to provide for additional safety on the highways.

I have a great deal of respect for the judgment of the Senator from Madawaska, but I think if he would carefully think this over he would look upon this as I do, after a quick glance at it, that this is merely taking Route 1 to disaster for our point system, because if you start qualifying the point system by stipulating that any person who has driven under nine miles an hour in excess of the speed limit, I think you are running into trouble with the whole system of points we have with the Secretary of State's office, and I would object to this as means of opening a door to completely do away with the point system. I think this would be wrong.

In the matter of expunging records which we have just discussed at length here, the Senator from Aroostook is aware of the fact that if you travel for a period of three years you have points assessed against your driving record prior to that time, but then if you are conviction-free for three years you get back those points, and the bad record is expunged, that is, the points are

expunged. It seems to me that we have a good system. Our highway death toll is appalling in this day and age, and we are only lucky in the last couple of years that it has been less than previous years.

When I had the pleasure of serving as Deputy Secretary of State these fatal accident reports would come over my desk each day, and the reason given for over 50 percent of these fatalities was alcohol involved, and it seems to me that we have a point system that is doing a reasonably good job we shouldn't try to destroy it. It would appear that this amendment would do that, and I would move the indefinite postponement of this amendment.

The PRESIDENT: The Senator from Franklin, Senator Shute, now moves that Senate Amendment "A" be indefinitely postponed.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I had asked to explain this amendment but, unfortunately, apparently the President didn't hear me and allowed Senator Shute to give his explanation or his objections before my explanation.

First of all, I do not believe that this will disrupt the point system. First of all, we are just going back prior to 1972. Prior to 1972 you were not assessed any points if you were caught speeding within more than ten miles an hour above the speed limit, but now we are in a different ballgame with this lowering of speed limits for gas economy. We are in an entirely different ballgame on this. I have checked this amendment here, and the Secretary of State has no objection to it. In fact, he helped me draft the new one. As you know, last week I came out with another type of amendment and, after discussing it with the Secretary of State, I came out with this one here, and I am not going to introduce the other one. I also checked with Colonel Nichols of the State Police and he had no objection to this at all.

I am entirely in agreement with the point system as far as safety rules are concerned. I am also entirely in agreement to lowering the speed limit for gas consumption to conform with the national request of the President. But at the same time we are exposing a lot

more people to this point system by lowering the speed limit on the Interstate system, for instance, from 70 miles to 55 miles an hour. If you are caught going 50 miles an hour you can lose two points. If you are caught going above ten miles or let's say you are going 66 miles an hour, you can lose three points, and it doesn't take long for you to lose four points. Now once you reach the 11 point limit, then your license is suspended.

We are talking about two different things entirely. One is a safety rule, while this other one is an economy program to save gas, which in the first place hasn't been proven. I can cite for instance, my own example of traveling 610 miles, or 310 miles one way, and I gas up before I leave here in Augusta and I gas up again in Madawaska. Now, prior to that when I gassed up in Madawaska I used to put in a little over 19 gallons of gas to fill my tank, and I do the very same thing now, I don't believe that I am saving more than half a gallon of gas in my whole trip. Representative McHenry told me yesterday that he had the same experience as far as gas saving. But that is not the point. The point here is that if somebody had his license suspended, this can become a family crisis as far as he is concerned. If his license is suspended for 30 days or 60 days, he can lose his job and it can be a family crisis as far as he is concerned.

All that this amendment does is go back to 1972, prior to 1972, and not only that, but you are starting at a much lower speed limit. In 1972 when the speed limit on the Interstate was changed to 70 miles an hour, if you were caught going less than 79 miles an hour you would not lose points under that system. Or on the regular road system, if you are caught going above 60 miles an hour, but less than ten miles over that limit, you would not be losing your points. Now, we are starting at a much lesser speed limit on the Interstate. We are starting at 65 miles an hour, so that means if you are going 66 miles an hour, or less than 65 miles an hour, you are subject to losing points which is really on a road that has been engineered for safety at 70 miles an hour. And you are caught at 65, either you are passing a car or for some other reason, unless you are watching that

speedometer all the time, it is very easy to go 60 miles an hour and not even notice it, and this is all that this would do. If you are caught violating the new speed limit by less than ten miles, you will still be submitted to going to court and all of the other things, a fine and what have you, but you will not lose points if it is less than ten miles.

This is all that this amendment is intended to do. It is not intended to destroy the point system which has worked and is working, but at the same time if you are going to submit to this kind of violation actually it is punitive, you are punishing the individual by doing that, and you are putting him in the position whereby he may lose his eleven points and have his license suspended. Then you have a family crisis on your hands.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I would deny that the Senate is causing this man to lose his license, or lose his ability to drive. If he does get his license suspended it is a result of his own violation and frequently knowledgeable violation of the law.

I would disagree with the Senator from Aroostook, Senator Cyr, that all this does is direct our attention to the interstate system. The nature of the bill and the nature of his amendment affects downtown Augusta, it affects Western Avenue and it affects every place in the state with a posted speed limit.

Being picked up for driving ten miles or nine miles an hour faster isn't going to cause anybody to get his license suspended unless he has had previous violations. Perhaps what we have accomplished and what we have tried to accomplish by putting in the point system, by putting in some rather tough highway safety legislation, is put the fear of God into ourselves and other drivers. Education hasn't done it, nothing that we have ever done has done it, to kill 56,000 people a year on the nation's highways is an acceptable figure. On the other hand if we kill 56,000 people sitting in their own living rooms watching television because of exploding television tubes or imploding television

tubes all hell would break loose but people have gotten inured to highway deaths. I say perhaps that it is no accident that our highway toll went down last year with this new point system, and perhaps it is a blessing of the Lord that our fatality rate is going to go down on the highways again this year because of reduced speed limit. I, for one, have found it impossible in my mind to assess a dollar value to the saving of one human life. I, for one, will not accept the notion that we should so gear our legislation as to protect the convenience and the right of a person to drive to and from work to earn a living. I am much more concerned with the other human elements. Too long have we paid attention to the hardship on the driving violator and too little have we spent time thinking about the enormous slaughter on the highway.

To a very real extent this is a highway safety measure and to a very real extent the blessings of the energy crisis, if there are any blessings is the resulting saving of human life. I certainly hope that this amendment is defeated.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President and Members of the Senate: When I first learned of the Senator from Aroostook, Senator Cyr's amendment I too, objected and had strong reservations about violating the principles of the point system because I too, feel that highway safety is extremely important. The fact that there has been lives saved and accidents saved because perhaps of the point system, or perhaps of the energy crisis as a result of lowering the speed limit and so forth, it may be true, but I don't think that is what we are talking about now.

There is a credibility of the point system here at stake and after giving this amendment serious thought I talked with Captain Jamison of the State Police who has, I guess, just come off an assignment with traffic and safety in this state. He says that he has also been seriously considering where the speed limits have been lowered, not in the name of safety, but in the name of conservation that he feels it is strictly an

economic factor that we are dealing about and not a matter of safety by imposing the point system on this economic move.

The more I thought about it and I think, the more you think about it, the more you will agree that if we are going to protect the credibility of the point system you will want to support this amendment. It is that simple. If the speed limits were lowered in the name of safety that would be one thing but the speed limits were lowered in the name of conservation of fuel. To be consistent with the law and to be consistent with this conservation effort, I think the law needs a slight change and I think that Senator Cyr has done this to protect the credibility of the point system.

Of course the Senator from Franklin, Senator Shute has mentioned alcoholism being a major cause of accidents and I guess we would all agree with that that obviously is irrelevant in this discussion because no matter how fast a person may be going and if he is arrested for alcoholism it has nothing to do with how fast you are going.

So, I strongly would urge you to vote against the motion to indefinitely postpone this amendment and if someone feels that the amendment could be more clearly defined to gear itself to the conservation not the safety angle, I would be most happy to support that too. But for this time here I strongly support defeating the motion to indefinitely postpone.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: I think we are overlooking one thing in this debate. Let's not kid ourselves; I don't think we are ever going to go back to the free use of gasoline. It is not a temporary thing. President Nixon sent a message to Congress back in '71, requesting that they coordinate all these various departments of government regarding the oil and energy problems so that we would know just where we stood, and his requests were ignored at the time.

I think we are all going to be driving at lesser rates, and I don't see the days that we are all going to be driving six miles over the speed limit, just enough so we

won't get caught, namely, 76 miles an hour. I think those days are gone forever. I hope we never go to the electric carts and have to drive only 30 miles an hour, but these speeds, what we are doing now is going down and we might just as well get used to it. For that reason, I oppose this amendment.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President, I request a division.

The PRESIDENT: A division has been requested. The pending motion before the Senate is the motion of the Senator from Franklin, Senator Shute, that Senate Amendment "B" be indefinitely postponed. As many as are in favor of the motion will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 21 Senators having voted in the affirmative, and eight Senators having voted in the negative, the motion prevailed.

Thereupon, the bill was Passed to be Engrossed in concurrence.

The President laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act to Specifically Include Sundays in the Seasonal Date Limitations for Hunting in Commercial Shooting Areas." (H. P. 1836) (L. D. 2327)

Tabled — February 8, 1974 by Senator Shute of Franklin.

Pending — Enactment.

Thereupon, the Bill was Passed to be Enacted in non-concurrence. Sent down for concurrence.

The President laid before the Senate the third tabled and specially assigned matter:

Bill, "An Act Providing Funds for Spruce Budworm Control and Surveys." (H. P. 1684) (L. D. 2077)

Tabled — February 11, 1974 by Senator Berry of Cumberland.

Pending — Enactment.

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending Enactment.

On motion by Mr. Sewall of Penobscot,
Adjourned until 10 o'clock tomorrow
morning.