

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

STATE OF MAINE
 One Hundred and Eleventh Legislature
 First Regular Session
 JOURNAL OF THE SENATE
 Augusta, Maine
 March 8, 1983
 Senate called to order by the President.

Prayer by Father Roland Lajoie of St. John the Baptist Catholic Church of Brunswick.

FATHER LAJOIE: Let's bow our heads and pray for God's blessing! I'd like to pray with you this morning one of my favorite Psalms, I used it in the House the other day, and I'd like to share it with you again, today. It's Psalm 139; it's one that really situates us from where we're at right now, for the Lord is with us:

"O'Lord, You have probed me, and You know me. You know when I sit and when I stand. You understand all my thoughts from afar.

My journeys and my rests, You scrutinize. With all my ways, You are familiar. Even before a word is on my tongue, behold, O'Lord, You know the whole of it. Behind me and before, You hemmed me in and rest Your hand upon me. Such knowledge is too wonderful for me; too lofty for me to attain.

Where can I go from Your spirit? From Your presence where can I flee? If I go to the heavens, You are there; if I sink to nether world, You are present there. If I take the wings of the dawn, and if I settle at the farthest limits of the sea; even there Your hand shall guide me, and Your right hand holds me fast.

If I say, Surely darkness shall hide me and night shall be light; for You darkness itself is not dark, and night shines as the day, darkness and light are the same.

Truly, You have formed my inmost being and You knit me in my mother's womb. I give You thanks that I am fearfully and wonderfully made. Wonderful are Your works; my soul, also, You knew full-well, nor was my frame unknown to You. When I was made in secret, when I was fashioned in the depths of the earth, Your eyes have seen my action; in Your Book they are all written.

My days were limited before one of them existed. How weighty are Your designs, O'God! How vast the sum of them! Were I to recount them, they would outnumber the sands; that I reach the end of them, I should still be with You.

Father, be with us throughout this day: enlighten us, guide us, keep us as Your property and possession. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Papers From the House
 Non-concurrent Matter**

BILL, "An Act to Undedicate Funds Received from Public Reserved Lands." (S. P. 297) (L. D. 951) In the Senate March 1, 1983 Referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Comes from the House referred to the Committee on Energy and Natural Resources in non-concurrence.

On motion by Senator Pray of Penobscot, the Senate voted to Adhere. (See action later today.)

House Papers

BILL, "An Act to Extend Consumers Freedom of Choice Regarding Insured Mental Health Services." (H. P. 743) (L. 955)

Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which was referred to the Committee on Business Legislation and Ordered Printed in concurrence.

BILL, "An Act to Amend the Law Governing Construction Permits and the Examination of Plans by the Office of State Fire Marshall."

(Submitted by the Department of Public Safety pursuant to Joint Rule 24.) (H. P. 744) (L. D. 956)

Comes from the House, referred to the Committee on Legal Affairs and Ordered Printed.

On motion by Senator Pray of Penobscot referred to the Committee on Business Legislation and Ordered Printed, in non-concurrence. Sent down for concurrence.

BILL, "An Act to Transfer Residual Jurisdiction of the Public Utilities Commission Over Municipal Transit Districts to the Department of Transportation." (Submitted by Public Utilities Commission pursuant to Joint Rule 24.) (H. 745) (L. D. 957)

BILL, "An Act Relating to Deposits and Termination of Utility Service for Nonresidential Customers." (Submitted by the Public Utilities Commission pursuant to Joint Rule 24.) (H. P. 746) (L. D. 958)

BILL, "An Act to Remove the Requirement that Certain Municipal Water Utilities Secure Approval of the Public Utilities Commission to Issue Short-term Debt." (Submitted by the Public Utilities Commission pursuant to Joint Rule 24.) (H. P. 747) (L. D. 959)

BILL, "An Act to Amend the Act Restricting Rate Increase Proposals by Public Utilities." (Submitted by the Office of Public Advocate pursuant to Joint Rule 24.) (H. P. 748) (L. D. 960)

BILL, "An Act to Require the Public Utilities Commission to Expenditiously Process Consumer Complaints." (Submitted by the Office of Public Advocate pursuant to Joint Rule 24.) (H. P. 749) (L. D. 961)

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which were referred to the Committee on Public Utilities and Ordered Printed in concurrence.

BILL, "An Act to Authorize the Maine Turnpike Authority to Receive Applications and Approve Descriptive and Directional Signs on the Maine Turnpike." (H. P. 750) (L. D. 962)

Comes from the House, referred to the Committee on Transportation and Ordered Printed.

Which was referred to the Committee on Transportation and Ordered Printed in concurrence.

Communication

The Following Communication:

State of Maine
 Department of Public Safety
 36 Hospital Street
 Augusta, Maine 04333

March 1, 1983

Ms. Joy O'Brien, Secretary
 Maine Senate
 State House Station No. 3
 Augusta, Maine 04333
 Dear Ms. O'Brien:

Enclosed herewith please find 35 copies of a report entitled "Child Safety Seat Public Information and Education Program — Study of Effectiveness" as required by 29 MRSA 1368-B.

The Department of Public Safety is pleased to have been of service to the Maine Legislature in this regard.

Respectfully submitted,
 S/ARTHUR A. STILPHEN
 Commissioner

Which was Read and with accompanying papers Ordered Placed On File.

Senate Papers

BILL, "An Act to Require Motorcycle Driver Education Prior to Licensure to Operate a Motorcycle." (Submitted by the Department of Public Safety pursuant to Joint Rule 24.) (S. P. 364) (Presented by Senator DANTON of York.) (Cosponsors: Senator BALDACCI of Penobscot and Representative PERRY of Mexico.)

BILL, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government (Highway Fund) and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1984, and June 30, 1985; Revising Certain Truck Size and Weight Laws; Clarifying Certain Motor Vehicle Laws and Providing for Improved Administration." (Submitted by the Department of Transportation pursuant to Joint Rule 24.) (Emergency) (S. P. 365) (Presented by Senator DANTON of York.) (Cosponsor: Representative CARROLL of Limerick.)

Which were referred to the Committee on Transportation and Ordered Printed. Sent down for concurrence.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

**Paper From the House
 House Paper**

BILL, "An Act Adjusting Certain Motor Vehicle Registration Fees, Increasing Motor Fuel Taxes and Establishing a Special Fuel Tax Suppliers Law." (Emergency) (H. P. 868)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed, in concurrence.

**Committee Reports
 House**

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Delineate Community Services in Maine." (H. P. 292) (L. D. 351)

BILL, "An Act to Require Workers' Compensation Commissioners to Explain Fully the Reasons for Their Decisions." (H. P. 336) (L. D. 395)

BILL, "An Act Relating to Skiers' and Tramway Passengers' Responsibilities." (H. P. 523) (L. D. 648)

BILL, "An Act Concerning Notice of Department of Marine Resources' Rule-making and Adjudicatory Hearings." (H. P. 525) (L. D. 650)

RESOLUTION, Proposing an Amendment to the Constitution of Maine Reducing the Size of the House of Representatives to 99 Members. (H. P. 637) (L. D. 788)

Ought to Pass — As Amended

The Committee on Aging, Retirement and Veterans on BILL, "An Act to Amend the Definition of Earnable Compensation." (H. P. 370) (L. D. 453) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-42)

Comes from the House, the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-42)

Which Report was Read and Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

The Committee on Education on BILL, "An Act to Allow the Commissioner of Educational and Cultural Services to Charge a Fee for Private Industrial Fire Brigade Training." (H. P. 519) (L. D. 644) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-43)

Comes from the House, the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-43).

Which Report was Read and Accepted, in concurrence. The Bill Read Once. Committee Amendment "A" was Read and Adopted, in

concurrence. The Bill, as amended, Tomorrow assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on BILL, "An Act to Require Mandatory Jail Sentences for Trafficking or Furnishing Drugs." (H. P. 122) (L. D. 130)

Reported that the same Ought Not to Pass.
Signed:

Senators:

TRAFTON of Androscoggin
VIOLETTE of Aroostook
COLLINS of Knox

Representatives:

SOULE of Westport
BENOIT of South Portland
LIVESAY of Brunswick
FOSTER of Ellsworth
REEVES of Newport
HOBBS of Saco
CARRIER of Westbrook

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass in New Draft under same title. (H. P. 742) (L. D. 929)

Signed:

Representatives:

DRINKWATER of Belfast
HAYDEN of Durham
JOYCE of Portland

Come from the House, the Minority Report Read and Accepted and the New Draft Passed to be Engrossed, as Amended, by House Amendment "B" (H-47).

Which Reports were Read.

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

Senator TRAFTON: I move Passage of the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton, moves the Senate Accept the Majority Ought Not to Pass Report.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: I would ask for a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I as a cosponsor of the original Bill involved in this Committee Report, would also urge you not to Accept the Majority Report.

The Bill has been altered, somewhat, from what our original Bill was, and in its new form would require a mandatory minimum ten day jail sentence for second offense convictions of trafficking. The original Bill was trafficking or furnishing, and I agree with the Committee's action in taking out the furnishing part. The original Bill was first offense.

I realize that many of you do not approve of mandatory minimums, and I, also, understand the concerns of the good Senator from Androscoggin, Senator Trafton, in that some, apparently most judges are giving more substantial sentences to second offenders.

I would hope that we could make it very clear, if we do Accept the Minority Report, that it is the Legislative intent that this be a mandatory minimum, and not the prescribed sentence, necessarily, prescribed by the Legislature, and that the judge certainly would have the leeway to give more substantial sentences; therefore, I would oppose the motion to Accept the Ought Not to Pass Report and hope that we could accept the New Draft and then, also, accept the Amendment which was subsequently added to it. Thank you.

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

Senator PEARSON: Mr. President, and Members of the Senate, I would like to pose two questions to anybody who might care to answer them.

One is, what is trafficking? What is legally,

technically, trafficking? That's what I would like to know.

The second question is, in the present form does the Bill require a ten day sentence in jail for the second offense, and that's all? Is it possible to have a more severe sentence in the present form that this Bill is in?

The PRESIDENT: The Senator from Penobscot, Senator Pearson, has posed a question to any Member of the Senate who may so answer, if they desire.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, I will try to respond to Senator Pearson's questions.

First, I'm looking at Section 1101, of Maine's Criminal Code, which defines trafficking. Trafficking includes many things; trafficking is the making, creating or manufacturing; it's the growing or cultivating; it, also, includes the possession with the intent to furnish. Those things all make up trafficking.

Now the second part of his question was, does those statutes now create a minimum ten day sentence? It does not. Currently, a judge can impose for a Class "D" crime, a sentence of up to one year in jail, or a Class "C" crime, up to five years in jail.

If you look at the L.D. in question 130 there are violations cited in that L. D. of either "B", "C", or "D" crimes, so that a judge has the discretion, depending on the nature of the crime, to impose on the minimum, in this L. D. up to one year imprisonment in a corrections facility.

If we want to send a message to the general public and to our constituents back home that we do not condone the trafficking in drugs. This Bill is not the means. Let me describe why.

Many judges that have been contacted has to, the House Amendment, House Amendment "A", which provides for a minimum mandatory sentence of ten days. The judges respond that if we do enact that minimum mandatory sentence on a second offense that may well be the sentence that they dole out on a second offense; meaning, they would not impose more than a ten day sentence. They would construe our action, in voting in this Amendment, as a recommendation that a second offense should have a ten day sentence.

My position is, and the position of the Majority of the Report is, that a judge has ample discretion and ample ability to fine and order imprisonment to a first or second offender. My experience in defending criminals charged with drug crimes has been limited, but in discussing this Bill with many attorneys who have had experience, it is not common at all, for a defendant charged with trafficking, judgments to receive just a fine. In fact, a fine is considered by most judges to be inadequate to punish somebody who has been trafficking. Judges are very sensitive to the type of punishments that they dole out. Especially, in the case of a second offender, they will give a person a minimum thirty or sixty days imprisonment. Thank you.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I'm not qualified to stand here and dispute the words of my colleague from Androscoggin, but I would really like to know, (I guess perhaps later), which judges have indicated that this is what they are going to do as far as imposing this as a maximum rather than a minimum, if this Bill passes?

The second point is, that if the Judiciary is concerned about Legislative intent that if this Bill survives its initial battle this morning, I think we can make it very, very clear as to what our intent is regarding this Bill, and that is, that it be a minimum and that it not, not constrain the judiciary at all, as far as, imposing stiffer sentences.

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

Senator PEARSON: Mr. President, Men and Women of the Senate. This particular Bill has caught my interest in the last couple of days, and I know very well, as does everybody who is sitting in here, which side, "plays best in Peoria." Everybody knows that!

You know, you have to draw on your experience, and I'm doing that. In my situation, I teach in a high school, and there isn't any high school in this State that doesn't have some drugs in it. Every one of them does. There isn't anybody who teaches school or probably virtually no parents that wouldn't like to have that completely eliminated, but the fact of the matter is, it isn't going to be eliminated right off, and it may not be eliminated in our lifetime. Just as alcohol is not going to be eliminated probably in our lifetime.

Here's the situation, almost every school it seems to me in the State, almost every one, has their smoking area, and out in that smoking area, somebody comes up to a student and says, have you got any drugs? You got any Marijuana? Another one says, yea, I have. I'll give you a dollar for it or whatever the going rate is for it, and they buy it. Now, somebody's been trafficking. Under that definition, somebody's been trafficking. They may be fifteen, sixteen, seventeen, eighteen years old. The next day the same thing happens and that's a second offense. If they were caught the first time, and they'd gone to trial, gone to court, and the judge had said, let them off. The second time they did the same thing, which is happening thousands and thousands of times, all over the State every day. Your going to create a whole class of people in this State that are going to have records that probably if you gave them another two or three years, they'd never have it.

I overheard a discussion the other night, or actually a friend of mine did, of two lawyers, who said they thought this Bill was just great. You ought to do something about those kids that are smoking marijuana and all that. Those two lawyers were drinking, one drink right after another.

You know people, I think you've got to use some common sense. That's why I'm going to support the position of the Chairman of the Judiciary Committee, even though, I know that it won't, "play well in Peoria", but it's the right position, in my opinion.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President, I'd like to, also, pose one other question, if I can, to anyone that would care to answer.

First, I concur a hundred percent with what the good Senator from Penobscot, Senator Pearson has just said.

The second issue is one of practicality, we have, I think, very much an overcrowding in all the county jails; we have one thousand and five in our prison population now. Just as an aside, where are we going to put these people, once we sentence them to these mandatory sentences? If someone would please answer that! Thank you.

(Off Record Remarks)

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

Senator HICHENS: Mr. President and Members of the Senate, I did not intend to debate on this Bill, except to make the motion for a Division, but in answer to the good Senator from Washington, it grates me when I hear people get up and people come to me and say, well, we shouldn't have to be sending so many people to jail, because our jails are overcrowded, our prisons are overcrowded. I had one of my constituents call me up a couple of weeks ago, who has a brother in the State Prison Farm, and he said, "is there any chance that my brother can get off six months earlier to make more room for people going in?" That is the attitude that

people are taking. It's too bad we don't have room in our jails and our prisons for people who are breaking the law, and our commissioner has asked that we extend these facilities in the State. It's too bad we can't turn the trend the other way, but until we do, I think the excuse that our prisons and jails are too full, and so we have to let people who commit crimes go free is a bad reason.

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

Senator KANY: Mr. President and Members of the Senate, I am wondering if possession of an ounce and a half of marijuana would constitute trafficking to the point where you would have to go to jail for ten days?

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

Senator TRAFTON: Let me give the good Senator Kany a response to her question. It is my understanding that the Criminal Code now says, that possession of an ounce and a half of marijuana creates the presumption that a person is furnishing, that drug, that drug of marijuana to somebody else. It doesn't constitute trafficking, but it does constitute furnishing. As was indicated by Senator Carpenter the furnishing section of the L.D. was removed by the House Amendment, so that this L.D. in its form with the amendment does not address furnishing.

I would like to simply reiterate my point, that the position of the majority of the Judiciary Committee is that drug trafficking is a major problem in the State of Maine.

It is my concern that this L. D. 130 with its amendment would simply give the wrong signal to the Judiciary. The judges do not have the complete Legislative Record and the Legislative History on every statute that is passed, in front of them. Judges may misconstrue an amendment for a minimum mandatory sentence of ten days to be a lesser sentence than they might otherwise impose.

I think that it is very important that we consider the message that we are sending back to the general public and to the judges and that is why I urge that we accept the Majority Ought Not to Pass Report.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Androscoggin, Senator Trafton that the Senate Accept the Majority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

24 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion to Accept the Majority Ought Not to Pass Report, in non-concurrence, Prevailed.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Legal Affairs on BILL, "An Act to Require Liquor Price Equity at Certain Border Area Liquor Stores." (H. P. 271) (L. D. 331)

Reported that the same Ought Not to Pass.

Signed:

Senator:

SHUTE of Waldo

Representatives:

DUDLEY of Enfield

COX of Brewer

STUDLEY of Berwick

COTE of Auburn

HANDY of Lewiston

DILLENBACK of Cumberland

SWAZEY of Bucksport

STOVER of West Bath

The Minority of the same committee on the same subject matter Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-40)

Signed:

Senators:

CHARETTE of Androscoggin

DANTON of York

Representatives:

McSWEENEY of Old Orchard Beach

PERRY of Mexico

Come from the House, the Majority Report Read and Accepted.

Which Reports were Read.

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

Senator CHARETTE: Mr. President, I move for the Minority Report.

The PRESIDENT: The Senator from Androscoggin, Senator Charette, moves that the Senate Accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President and Ladies and Gentlemen of the Senate, this Bill extends the cut-rate liquor prices from the Kittery Store to three other stores in the State, which would include Rumford, Sanford and Fryeburg.

Now we have one store in the State that discriminates against almost everybody in the State, and I don't see where we are going to get ahead much adding three more stores that discriminate against other parts of the State.

If you are going to have all border stores, why don't you have Eastport, Jackman, Madawaska and all the border stores? Not just pick out a few in southern Maine.

You are just giving preferential treatment to certain individuals in the State. I know last year people said, that this wasn't discrimination, because we in eastern Maine and northern Maine could drive down to Kittery to buy the liquor, if we wanted to, to save a dollar a quart or whatever you might save. But by the same token if you had all the tarred roads in Kittery we could still ride down there and drive on them so that wouldn't be discrimination, if everybody else in the State had dirt roads.

I hope that you will reject the Ought to Pass Report and Accept the Ought Not to Pass Report.

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

Senator CHARETTE: I believe that the Legal Affairs Committee in the 110th tried to, in a Committee Bill, tried to equalize the prices in the State of Maine and it was the wish of the Legislature then not to do that. However, we must bear in mind that the stores that we are talking about are bordering New Hampshire and it is estimate that 5% of our sales are going into New Hampshire area.

This Bill is to retain those sales in Maine, and in addition hopefully pick up sales from New Hampshire, as well as, Massachusetts. Therefore, that is why these three stores are part of this Bill and not the entire State of Maine.

Therefore, some of us on the Committee felt that if we are going to be in the liquor business that we have got to move where the action is, and if the action is on the borderline stores in New Hampshire and if we have to do something to retain that business, this piece of Legislation will do it. Thank you.

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

Senator USHER: Thank you, Mr. President. Mr. President and Members of the Senate, my question to a member of the Committee, was there any discussion given to the people in the Bangor area, Lewiston area, or the Portland area during the discussion on the Bill?

The PRESIDENT: The Senator from Cumberland, Senator Usher, has posed a question to any member of the Senate who may respond if he so desires.

The Chair recognizes the Senator from Androscoggin, Senator Charette.

Senator CHARETTE: Yes, in response to the good Senator Usher, yes there were questions about Lewiston, perhaps of having just Augusta as another area, that would probably be more centrally located than any other area,

however we did discuss up through Jackman. We talked about everything.

From the Committee Report as you can see the unanimous report was for Ought Not to Pass, and four of us wished to vote on the three stores as we are presenting this morning.

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

Senator DANTON: Mr. President and Members of the Senate, as a Senator from York County and not a member of the Legal Affairs Committee, I at last found an opportunity to cleanse my soul, so to speak. I am sick and tired of being criticized as having the only cut-rate liquor store in York County.

Unfortunately, on this particular Bill I agree with the good Senator from Androscoggin, Senator Charette and I, also, agree with the good Senator from Waldo County, Senator Shute.

I think what should happen with this Bill, I think, we should take and drop the price all over the State of Maine, and let's make it fair once, and for all. It's not going to cost much money, ten or twelve million dollars.

I would be more willing to support anyone's initiative, if you will, to take and go along with this Bill, let's get it into Second Reader, let's take and amend the Bill and lower the prices throughout the State of Maine. I think that that is the way we should go, but you know as the little old Senator from York County, I am getting sick and tired of always hearing the Kittery Store. The Kittery Store!

You now have an ample opportunity to do just what you have been complaining about. Let's lower the prices throughout the whole State.

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

Senator BALDACCI: Thank you, Mr. President. Members of the Senate, I would ask you to support the Ought to Pass Report of the Minority of the Committee, for the purpose that I have prepared an amendment, for tomorrow, to do what the good Senator from York, Senator Danton had recommended, which is to equalize the prices throughout the State, at the Kittery level.

I did it with a little bit of research, because it seems that the Kittery Liquor Store operates on a profit of about 30% to 35% and the other liquor stores throughout the State operate at about 65% to 70% markup. So there is still a good margin of profit and there is still good profit for the State. I think in all fairness to people throughout the State that we ought to try to make that situation more equitable, because it is very discriminatory. Thank you.

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

Senator PEARSON: Mr. President, I would like to pose a question to the Chair. The question is, is this Bill properly before us, since it has no Fiscal Note?

(Senate At Ease)

Senate called to order by the President.

The PRESIDENT: The Chair would respond to the parliamentary inquiry of the Senator from Penobscot, Senator Pearson. The Chair would rule that the Bill is properly before us, that the financial statement has been received from the Bureau of Alcoholic Beverages and the determination is that there is no measurable way to decide what amount of additional revenues will be brought in.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I rise today in opposition to the Minority Ought to Pass Report.

I would be in hopes today that we would concur with the other Body, which voted this matter down seventy-eight to thirty-seven and

Accepted the Majority Ought Not to Pass Report.

I have always been opposed to any kind of legislation which would in any way offer the sale of alcohol at reduced costs. This Body and this Legislature only in the last Legislature passed and placed a premium on the sale of alcoholic beverages because of the problems that we are having in this State with the abusive consumption of alcohol.

I think that it goes totally against that policy that this Legislature established, if what it is going to do is that it is going to begin to offer more access to alcohol at cheaper rates. I don't care if it is only in those three communities, I don't care if it is across the State, as far as I am concerned, and I understand the problems that the Senator from Waldo, Senator Shute, has with the discriminatory pricing structure, then the price at Kittery ought to be increased to that of the rest of the State, not decreased across this State.

I disagree completely with this problem, just because the State of Massachusetts is selling its alcohol at a cut-rate and wants to entice an increase in the consumption of alcohol within its own state and raise all of its own revenues through the sale of alcohol, which by the way has been decreasing not increasing and is one of the primary reasons why the State of New Hampshire is having severe financial difficulties is because that State has come to stand its foundation of its budget and its fiscal integrity on sin taxes and the like.

I don't think that's in the best fiscal interest in this State, I don't think it's in the best health interest of this State to support this kind of legislation. I hope, today, that we think about this very seriously, whether or not, we want to reduce the price of alcohol to make it that much more accessible to the general public, knowing the problems that we have with the sale of alcohol in this State. So, I would hope, today, that we would reject the Ought to Pass, as Amended.

In addition to this, the Committee on Legal Affairs over the years has studied, and studied this matter. I've always been opposed to reducing the price of alcohol throughout the State as the Senator from Penobscot, Senator Baldacci, has mentioned. We know what is going to happen to that Bill, to that Amendment. We know the resulting loss in income to this State that it's going to go and it's going to lie over on the Table, and it's going to die.

In addition to this, I think that that Fiscal Note is in error. I think there is a cost to the State of Maine. There is no doubt that a reduction in price means that you have to increase consumption at those stores by 50%. If you lower the price of alcohol, at those stores to the Kittery level, you have to increase consumption by 50% at those stores, in order to bring in the same level of profit. I don't think that's in the best interest of this State, whether it's just those three stores, or in every store in this State.

I would hope today, that we would vote against the motion, the pending motion to Accept the Minority Ought to Pass Report. Thank you.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, two years ago I offered a Bill on behalf of the Governor that would get the State out of booze business entirely and into the agency stores. Somewheres, in my recollection of a newspaper article recently, it appears to me that there is another Bill in the offering somewheres, by the Governor's Office, that will address getting the State out of booze business and letting it be operated by the agency stores. If I am correct in that assessment, then I would say that it would either be worthwhile to table this bill until the other one comes along, or to Indefinitely Postpone it.

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

Senator BALDACCI: Mr. President, I think it's important to respond, somewhat, to the good Senator from Aroostook, Senator Violette in two points.

The first is, you're not selling liquor at the Kittery store below costs. The Kittery store operates on a 35% profit level, markup.

The second thing is that it's very unfortunate not to be able to make a situation more equitable that's inequitable today. I would appreciate the good Senator from Aroostook, realizing that if the Legislative intent here is to just pass something and let it die, it is not my intent, and if this Body can concur with that amendment tomorrow, we can maybe have an opportunity in the House to see that it passes. Thank you, Mr. President.

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

Senator HAYES: Men and Women of the Senate, what I wish to suggest to you, in my judgment the encouragement of the sale of alcohol, and the subsequent treatment of the person who consumes it, strikes me as something that's sort of cynical and something that this State should not be involved in.

We have recent reports to this Legislature indicating that the total impact, the costs of alcohol abuse, and use in this State, is over seven hundred million dollars per year. This is a serious problem for our society, it's one that we don't recognize as clearly, perhaps, as we do the trafficking in drugs.

My feeling is, as with Senator Minkowsky, we probably should get out of the business of encouraging and selling liquor through State agencies. So, I favor the Majority Report.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President, and Ladies and Gentlemen of the Senate, I first off thought when I saw this Bill come along, that maybe feebly, we could hold off, and in the words of the good Senator from Waldo, Senator Shute and perhaps eventually we would have us a discount store over in Eastport. Then I think more seriously of the comments that the good Senator from Penobscot, Senator Hayes has just made, and the fact that this is a ridiculous Bill; it's ridiculous in terms of the kind of amendments we're think of adding on later.

Therefore, Mr. President, I would move, if it's not out of order, for Indefinite Postponement of this Bill, and all accompanying papers.

On motion by Senator Brown of Washington, the Senate voted to Indefinitely Postpone LD 331, in non-concurrence.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on BILL, "An Act to Restrict the Open Season on Partridge." (H. P. 43) (L. D. 48)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 765) (L. D. 965)

Signed:

Sensors:

USHER of Cumberland
REDMOND of Somerset

Representatives:

MacEACHERN of Lincoln
PAUL of Sanford
KELLY of Camden
CONNERS of Franklin
CLARK of Millinocket
GREENLAW of Standish
JACQUES of Waterville
ERWIN of Rumford

The Minority of the same committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senator:

DOW of Kennebec

Representative:

SMITH of Island Falls

Come from the House, the Majority Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Reports were Read.

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

Senator DOW: I move that we Accept the Minority Ought Not to Pass, and will speak very briefly to my motion. I'm not going to debate this all morning.

This Bill came before our Committee, as you can see there's only two signers on the Minority Ought Not to Pass Report. What it does is, over the years as most of you people, the older people in the Senate can remember, we've debated fish and game matters on trapping, hunting and fishing, for hours and hours on a motion, and over the years the Legislature had finally given the Department the right to set all of the hunting, fishing and trapping regulations, they have to go through the Administrative Procedures Act.

The Department had a hearing last year and sat the grouse season and the partridge season into December, and it bothered some people, so there was a Bill into the Legislature to contain setting that date.

It is my intention to leave it as it is, and not let all of the hunting and fishing regulations come back in front of the Legislature. So, I would ask you to support the Minority Ought Not to Pass. Thank you.

(Off Record Remarks)

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

Senator USHER: I would ask a Division on the motion.

Mr. President, to get into the issue a little bit more, the present APA System requires that the Commissioner holds hearings in different parts of the State. To go back on this issue, one hearing was held in the middle of the summer, in one location of the State, and approximately seventeen people were there. The notification was at a minimal; there was hardly any people that knew about it, and it was a very, very hot issue, when it did come out on a decision. It disturbed many people throughout the State. The decision had been made and people feel that it would have been another decision if there were other hearings, were to be held.

It ran into the end of the calendar year, which had been the end of December, and so we come up with a New Draft to stop it at the end of November. It's due to the fact that there's much snow on the ground when a normal winter, and the birds are just sitting on the limbs, and we felt to protect the birds through the winter season that we didn't want any hunters out there during the winter season while it was too easy to shoot, just like going to a carnival.

So, we cut the deadline at November 30th, and the open dates are still in the Commissioner's hands, and nothing else has changed.

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

Senator HICHENS: Mr. President and Members of the Senate, as a member of the Fish and Game Committee, I had heard, or had notification of the hearing, last summer, but I hadn't had any response from the people in my area, until last fall, I began to get telephone calls, and then went to a couple of the Fish and Game Club meetings, and was jumped on because of the fact that the season had been extended so long on partridge hunting. I was asked by several of them if I would put in a Bill this year to limit that season to November 15th, or thereabouts. When I went to the Legislative Research Office, and that was back in December, early December, I found out there had been five bills already submitted by other people throughout the State. So, I did not

bother to put mine in to add to the expensive, and so forth, but I have had calls, since then, asking me to support some date, similar to the November 30th date, and I know that the Fish and Game people down in my area will be very happy if this Bill is passed.

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

Senator REDMOND: Mr. President and Members of the Senate, in view of the large wooded area that I represent, and in view of all those people who derive their bread and butter from resorts, I wish to express my thoughts on this Bill, and I'd like to say that the Chamber of Commerce of Jackman has unanimously supported this Bill. As a matter-of-fact, I had a slot for a Bill that would make it even shorter.

The Commissioner is very well intended, I have much respect and admiration, but this is why our system is set up this way. The Committee is just placing some guidelines for the Commissioner, in case someone is an ill-advised, I think, that this is a very fine Bill, and I hope you will all support it.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Kennebec, Senator Dow that the Senate Accept the Minority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

7 Senators having voted in the affirmative and 23 Senators having voted in the negative, the motion to Accept the Minority Ought Not to Pass Report, Failed.

The Majority Ought to Pass in New Draft Report of the Committee Accepted, in concurrence. The Bill, in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

Senate

Ought to Pass — As Amended

Senator TWITCHELL for the Committee on Local and County Government on BILL, "An Act Concerning Fees Charged by Sheriffs and Deputies for Service of Certain Documents." (S. P. 117) (L. D. 295) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-16)

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-16) was Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Senator CHARENTE for the Committee on Business Legislation on BILL, "An Act to Amend the Banking Code Regarding the Trust Powers of Thrift Institutions." (S. P. 105) (L. D. 237) Reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-17)

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "B" (S-17) was Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Second Readers

House — As Amended

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

BILL, "An Act Concerning Part-Time Licenses under the Liquor Statutes." (H. P. 100) (L. D. 107)

BILL, "An Act to Require any State Mandatory School Program to Include the Necessary Funds for Implementation." (H. P. 383) (L. D. 466)

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

Senate — As Amended

BILL, "An Act to Change Price Posting Requirements for Beer and Table Suppliers." (S. P. 223) (L. D. 660)

Which was Read a Second Time and Passed to be Engrossed, as Amended.
Sent down for concurrence.

Enactors

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

An Act to Expand the Territorial Limits of Van Buren Light and Power District. (S. P. 44) (L. D. 103)

An Act to Provide All Municipalities with the Option to Establish a Local Board of Assessment Review. (S. P. 172) (L. D. 527)

An Act Relating to Wholesaler's and Taste-testing Activities under the Liquor Laws. (S. P. 283) (L. D. 840)

An Act to Amend the Banking Code Regarding Minimum Amount Entitled to Interest. (H. P. 155) (L. D. 180)

An Act to Ratify Dedication of Fort Sumner Park in the City of Portland (H. P. 274) (L. D. 334)

An Act to Prohibit Possession of Lobsters by Scallop Boats. (H. P. 276) (L. D. 336)

An Act to Clarify the Application of Ordinary Death Benefits to Participating Local Districts. (H. P. 371) (L. D. 454)

An Act to Amend the Biannual Meetings Between County and Municipal Law Enforcement Officers (H. P. 487) (L. D. 584)

An Act Relating to Ownership of Stock in Maine Financial Institutions (H. P. 682) (L. D. 838)

An Act to Amend the Banking Code Regarding Loans to Directors of Financial Institutions (H. P. 683) (L. D. 839)

An Act to Require Printed or Typewritten Names to Accompany Signatures on Documents Filed in the Registry of Deeds. (H. P. 692) (L. D. 863)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act to Clarify the Law Relating to Employees of Local Districts Who may Withdraw from the Maine State Retirement System. (H. P. 372) (L. D. 455)

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, with respect to L. D. 455, which concerns "Employees of Local Districts Who may Withdraw from the Maine State Retirement System." There is a small technical problem in the wording of Subsection 5-A in this Bill. I've conferred with the Chairman of the Committee on Aging, Veterans and Retirement. I suggest that we can very easily cure the problem just by creating a bit of Legislative History.

The problem is that there is a reference in the language to the United States Social Security System and there is another reference to the Maine State Retirement System. The contexts goes on in various parts to the words "State System." In Subsection 5-A, in the first paragraph, the technical reference back would make us believe that we are amending the United States Social Security System, and we clearly are not, and we do not have that power, and that is clearly not the intention, I'm sure, in the Bill.

I would, therefore, simply inquire of the Senator from Kennebec, Senator Dow, who Chairs the Committee, whether or not he agrees with the interpretation that I have expressed here, that it is the intent in referring to "the System," to mean the Maine State Retirement System and not the Federal Social Security System?

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

Senator DOW: The question by the good Senator, I do agree, that that should be under Subsection 5-A, the State Retirement System, that's what they're referring to. Thank you.

Which was Passed to be Enacted, and having

been signed by the President, was by the Secretary presented to the Governor for his approval.

(Off Record Remarks)

RESOLVE, to Authorize the Commissioners of Cumberland County to Reimburse the Town of Standish \$4,620.21 Unexpended Retirement Funds. (S. P. 162) (L. D. 450)

RESOLVE, to Name the Brook and Pond Located on the West Poland Road in Oxford County and on the West Shore of Thompson Lake in Honor of the Perkins Family (S. P. 171) (L. D. 526)

Which were Finally Passed, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Senator PRAY: Mr. President in reference to L. D. 951 I move that the Senate Reconsider its action whereby it Adhered, on

Bill, "An Act to Undedicate Funds Received from the Public Reserved Lands." (H. P. 297) (L. D. 951.)

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending the motion by the Senator from Penobscot, Senator Pray.

Orders of The Day

The President laid before the Senate, the first Tabled and specially assigned matter.

BILL, "An Act to Clarify Citizen Standing in Environmental Litigation." (H. P. 733) (L. D. 942)

Tabled—March 4, 1983 by Senator PRAY of Penobscot

Pending—Reference

(Committee on Judiciary suggested.)

(In the House, referred to the Committee on Energy and Natural Resources.)

On motion by Senator Carpenter of Aroostook referred to the Committee on Judiciary and Ordered Printed, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate, the second Tabled and specially assigned matter.

SENATE REPORTS—from the Committee on Education

BILL, "An Act to Increase Reimbursement for Professional Credits for Teachers." (Emergency) (S. P. 141) (L. D. 433)

Majority Report Ought to Pass in New Draft under same title (S. P. 361) (L. D. 1074)

Minority Report Ought Not to Pass

Tabled—March 7, 1983 by Senator PRAY of Penobscot

Pending—Acceptance of Either Report

On motion by Senator Carpenter of Aroostook, Retabled for 2 Legislative Days.

The President laid before the Senate, the third Tabled and specially assigned matter.

BILL, "An Act to Establish a Sign on the Maine Turnpike for Bates College." (S. P. 108) (L. D. 261)

Tabled—March 7, 1983 by Senator DANTON of York

Pending—Passage to be Engrossed, As Amended.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, as you may recall, this was a unanimous Ought to Pass Report from the Transportation Committee.

The problem that the Transportation Committee neglected to address at the time was an emergency preamble, to be consistent with other Bills that have come out of that particular Committee, relevant to the new policy by the Maine Turnpike Authority that those wishing signs would pay for the cost of maintenance of the signs.

We felt it was imperative, through the Lewiston/Auburn Chamber of Commerce that the eight thousand people, more or less, that visit Bates College during the spring of the year for graduation, as well as during the summer months, have access to this particular sign, this coming season. So, in that particular vain, Mr. President, I would like to present Senate Amendment "A" (S-18) to Committee Amendment "A" and move its Adoption.

On motion by Senator Minkowsky of Androscoggin, under Suspension of the Rules, the Senate voted to Reconsider Adoption of Committee Amendment "A".

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-18) to Committee Amendment "A" was Read and Adopted. Committee Amendment "A" as amended by Senate Amendment "A" thereto was Adopted. The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

(Off Record Remarks)

Senator Carpenter of Aroostook was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Pray of Penobscot, Adjourned until 9:30 o'clock tomorrow morning.