

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 28, 1983

Senate called to order by the President.

Prayer by Pastor Rick Stoops of the United Pentecostal Church of Augusta.

PASTORSTOOPS: Dear Lord Jesus, we come before You today; we ask You that You would bless this session; we ask You that You would give each Senator Your divine wisdom and that Your will would be accomplished today; we ask You Lord God that Your spirit would be felt by each one of these that are present today, that Your will would be accomplished in our lives and the lives of every person in the State of Maine.

We give You the praise and the glory of it all. In Jesus' Name. Amen.

Reading of the Journal of Friday, March 25, 1983.

(Off Record Remarks)

Senate Papers

BILL, "An Act to Promote the Development of Human Resources in Rural Areas of Maine" (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24) (S. P. 441) (Presented by Senator WOOD of York) (Cosponsors: Representative CROUSE of Washburn and Representative HALL of Sangerville)

Which was referred to the Committee on Agriculture and Ordered Printed.
Sent down for concurrence.

Committee Reports
House

Leave to Withdraw

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

BILL, "An Act to Amend the Right to Know Law to Include Briefing Sessions Held by Private Enterprise" (H. P. 323) (L. D. 382)

Ought to Pass

The Joint Select Committee on Alcoholism Services on BILL, "An Act to Make Allocations from the Alcoholism Prevention, Education, Treatment and Research Fund for the Fiscal Year Ending June 30, 1983" (Emergency) (H. P. 513) (L. D. 638) Reported that the same Ought to Pass.

Comes from the House with 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.

The Committee on Transportation on BILL, "An Act to Provide for Voluntary Inspection of Trailers and Semi-trailers under the Motor Vehicle Laws" (Emergency) (H. P. 911) (L. D. 1161) Reported that the same Ought to Pass.

Comes from the House with 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 Education on BILL, "An Act to Remove the Superintendent of the Governor Baxter School for the Deaf from Classified Service and Clarify the Law Relating to State Educational Personnel" (Emergency) (H. P. 769) (L. D. 999) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-78).

Comes from the House with the Report Read

and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-78) as Amended by House Amendment "A" (H-85) thereto.

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-78) was Read. House Amendment "A" (H-85) to Committee Amendment "A" was Read and Adopted, in concurrence. Committee Amendment "A" (H-78) as Amended by House Amendment "A" (H-85) thereto, Adopted in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

The Committee on Business Legislation on BILL, "An Act to Provide for Establishment of Employee Cooperative Corporations" (H. P. 215) (L. D. 258) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-82).

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-82).

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-82) was Read and Adopted, in concurrence. The Bill, as Amended, Tomorrow Assigned for Second Reading.

The Committee on Election Laws on BILL, "An Act to Expedite the Handling of Changes in Voter Registration" (H. P. 12) (L. D. 8) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-93).

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-83).

Which Report was Read.

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

The Committee on Election Laws on BILL, "An Act to Permit Young Children to Accompany their Parents into the Voting Booth" (H. P. 543) (L. D. 695) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-84).

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-84).

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-84) was Read and Adopted, in concurrence. The Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

Six members of the Committee on Legal Affairs on BILL, "An Act to Deny Certain State Funds to Any Person Who Refuses to Register under the United States Military Selective Services Act" (H. P. 652) (L. D. 820) Reported in Report "A" that the same Ought Not to Pass.

Signed:

Senators:
CHARETTE of Androscoggin
DANTON of York

Representatives:

HANDY of Lewiston
SWAZEY of Bucksport
COX of Brewer
COTE of Auburn

Six members of the same Committee on the same subject matter Reported in Report "B" that the same Ought to Pass.

Signed:

Senator:
SHUTE of Waldo

Representatives:

DILLENBACK of Cumberland
McSWEENEY of Old Orchard Beach
STOVER of West Bath

PERRY of Mexico
DUDLEY of Enfield

Come from the House, Report "B" Read and Accepted and the Bill Passed to be Engrossed. Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Charette. Senator CHARETTE: I would move that the Senate would Accept Report "A".

The PRESIDENT: The Senator from Androscoggin, Senator Charette, moves that the Senate Accept Committee Report "A".

The Chair recognizes the Senator from Waldo, Senator SHUTE.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, I hope you would Accept the Ought to Pass Report of this Bill. This Bill would require that the Governor could withhold certain funds from students applying for college or other activities in the State, if they refuse to register for the draft.

This is not much different than what our Federal statutes say and I hope the Senate would go along with the Ought to Pass Report of this Bill.

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

Senator ERWIN: Mr. President, distinguished Members of the Senate: I've always been taught and tried to practice: be courteous and consider other peoples' feelings.

There are three areas when I feel very strong: my family, my religion. I do not ever try to influence or tell other people how to practice their religion and that includes the Quakers. I don't think that they should try to influence my life in any way, either. I question the point of charitable organizations trying to influence legislation and hiring people to do so.

The third point is patriotism. I feel, quite strongly, my country has provided me with freedoms which I value, and I'm sure that each and every person here values. It is not by accident we have those freedoms and it can be eroded, a little bit at a time.

The group of people that call themselves "the intelligentsia" are trying constantly to erode these three things that I have mentioned. They tried my father's generation; they tried mine; they tried my children, and now they're working on my grandchildren; they do not give up. They have got a foot in the door.

If we say we are going to give funds to people that refuse to obey a Federal law, I ask you do I, or do you, have a right to pick and choose which law we choose to obey and which law we choose to break? To me, it is as simple as that. If it is a bad law, it ought to be changed. But what right do we have to pick and choose which law we are going to obey?

For this reason, I ask you to seriously consider the way in which you vote on this L. D. Thank you.

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

Senator CHARETTE: Thank you, Mr. President. Women and Men of the Senate: There are several Constitutional objections that could cause this law to be held unconstitutional if enacted, and I'd like to point out a few:

The war power is exclusively a Federal power. The Constitution gives the Federal Government the power to declare war, raise armies and do other things related to waging wars. This power is exclusively Federal—it is not an area where states can also act. This is logical since there would be chaos if the states began to enact their own laws on a subject where a uniformed national policy is crucial. Since there is already a criminal penalty in the Federal law for not registering (up to \$10,000 fine and 5 years in jail), and already a method in the Federal law to enforce it (criminal prosecution), the Federal Government has clearly chosen to act on this matter of federal concern. This should be the exclusive remedy for violation of this federal law. If people believe this law is not being adequately enforced

by the federal government, they could work using political means to urge enforcement, rather than attempting to have the State legislate in an area that is exclusively federal.

Delegation of Doctrine—Under the Separation of Powers doctrine the three branches of government are separate and distinct. The Legislature cannot delegate its legislative function to the Executive Branch without providing clear standards of guidance. This Bill grants unlimited, unguided power to the Governor with absolutely no standard to guide his unfettered discretion. Thus, he can arbitrarily pick and choose which "state programs" will be denied to nonregistrants.

The Statement of Fact misleadingly refers to economic benefits while the bill itself would not allow nonregistrants to participate in state programs. Which state programs—would the person be denied a drivers' license, the ability to use state parks, the ability to be recompensated for a contaminated water well? In addition, would the nonregistrant's family be hurt?

The third item is due process and fairness. If the government prosecuted a young man who did not register it would have to prove his guilt in a trial before a penalty was assessed. It can't just assess fines without holding a hearing—this would violate the Due Process clause. Yet this bill would penalize nonregistrants if they don't produce a registration letter—with no hearing, no requirement that the government fulfill its burden of proof.

There's also Void for Vagueness Doctrine, and a law must be specific enough to let people guide their conduct according to its wording and to enable courts to enforce it. This act is extremely vague.

Now we get to self-incrimination. The federal court in Minnesota has granted an injunction against enforcement of a similar federal law that denies higher education assistance to nonregistrants on the grounds that the law violates the person's 5th Amendment right against self-incrimination. The judge stated: "... the plaintiffs' identification of themselves as nonregistrants could incriminate them or provide a significant link in the chain of evidence tending to establish their guilt." That is, identification in this context could incriminate the man in a future prosecution under federal law. This case is being appealed by the federal government. If upheld this would provide a precedent in other cases. It seems unwise to pass a similar state law while a federal court is already considering the federal law.

The Judicial Branch, not the Legislature, holds the power to try cases under the Separation of Powers doctrine. Our Constitution prohibits "trial by Legislature." A bill cannot point out persons with certain characteristics and set forth their punishment in that same bill. The Legislature's duty is to set forth unlawful acts and then let the courts enforce and punish violations.

Finally, Equal Protection. This act seems to discriminate against the poor, against sex, and since it effects will fall more heavily on poor than on the rich nonregistrants.

Therefore, I move that the Senate vote Committee Report "A" Ought Not to Pass. Thank you very much.

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

Senator HAYES: Ladies and Gentlemen of the Maine Senate, hopefully my remarks on this topic will not be discounted by the suggestion that I am one of the "intelligentsia" identified by the good Senator from Oxford, Senator Erwin, for my intent is not to tear down the great values of this America society.

The present Bill L.D. 820 is an example of unfortunate, and in my opinion, unwise Legislation. It really is not the kind of Legislation that reflects the maturity and the good judgment of statesmen. It reflects, indeed, by some Legislators to frame their sense of patriotism in law. While I have sympathy for those who

want our young to be loyal to our Nation, it is obvious that one cannot Legislate morality, and I believe, it is equally impossible to Legislate a sense of loyalty.

Loyalty to the Nation and love of Country are values that are based on the passing of these traditions and these interests from parent to child. Their experiences in the school system and the perceiving that this is a good and just society. At times, patriotism is best expressed by questioning the public policy; examining issues like Vietnam; examining the support of dictatorships; examining the support of corrupt regimes in El Salvador, and raising issues about the registration and the drafting of young males to fight the wars that older citizens make.

Frankly, I favor selective service as opposed to a professional army and am proud to have served in the Marine Corp, but I'm not proud of this Legislation; it gives broad powers to the Executive; discriminates against males and does not really respect the good old American values of dissent. Whether we believe in it or not, some of our brightest young people are those that raise questions about the policies that we shape and they should have the right of other Americans.

Our passage of this Bill will not make our young males more patriotic, nor make this a more equitable and just society. It is discriminatory, emotional and unfortunate Legislation.

I strongly urge that you vote Ought Not to Pass today, and reflect tomorrow on the statesmanship of the Members of this Senate.

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

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, I guess we've gone off the path of what the Bill was intended to do. The Bill is not a "Draft Bill," as I understand it, it's registration, and registration does not mean a draft; whether it's El Salvador, or Germany, or wherever. I think to get back on what the intent of the Bill was, I know our educational institutions are very quick to make out applications for loans or delve into the income of parents, or children, or anything else, and I don't see where it would hurt the educational institutions to make sure that the person has registered. As I said, registration has nothing to do with the draft, nothing to do with any foreign war, or anything else. If we are going to be very selective in which laws that we intend to comply with, I don't know where you draw the line; whether the line should be drawn as far as Federal Law, State Law, or Municipal Ordinance. Maybe we can select which laws we would like and then just follow the ones that suit our own fancy.

Mr. President, I would ask for a Roll Call.

The PRESIDENT: 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 the motion by the Senator from Androscoggin, Senator Charette, that the Senate Accept Report "A" Ought Not to Pass.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, Men and Women of the Senate, what we are involved here today with is a Bill that is trying to get compliance for young males to register for the Selective Service. A Federal Law that was passed to require registration of young men, not a State Law, a Federal Law.

In each state there are Selective Service Boards now. Those Selective Service Boards are trying as best they can to come up with as

many different schemes as they can to get people to register for Selective Service, they are asking the guidance counsellors in high schools, the english teachers in the high school because every student in high school has to take English and most all of them turn eighteen in their senior year; in order to get compliance for the Federal Law. It is a Federal Law, and if you break that Law, you are breaking a Federal Law. I don't see any reason why this particular piece of Legislation is necessary.

I want to tell you that through the recommendation of the Governor and the appointment, I guess, President Reagan, or by somebody, I was appointed to the Selective Service Board in my area in Maine, matter of fact, I am the Chairman of it. I think we need compliance with the Selective Service Law.

I don't think we ought to be doing it in the manner that this Bill asks for it to be done, because if a person breaks a law, they go to court. What you're saying here today is the Governor of this State can pick any program he wants to deny a person any State program that there is. Senator Charette points out that it could be a driver's license; it could be anything.

It's a very poorly drafted piece of Legislation by well-intentioned people, I would urge you to vote Ought Not to Pass on this Bill.

The PRESIDENT: A Yes vote will be in favor of the motion by Senator Charette of Androscoggin to Accept Report "A".

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Brown, Carpenter, Charette, Clark, Danton, Diamond, Dow, Emerson, Gill, Hayes, Kany, McBreairty, Minkowsky, Najarian, Pearson, Pray, Sewall, Trafton, Violette, Wood, The President-Gerald P. Conley.

NAY—Dutremble, Erwin, Hichens, Perkins, Shute, Teague, Twitchell, Usher.

ABSENT—Bustin, Collins, Redmond.

A Roll Call was had.

22 Senators having voted in the affirmative and 8 Senators in the negative, with 3 Senators being absent, the motion to Accept Report "A", Ought Not to Pass, in non-concurrence, Pre-vailed.

(See Action Later Today)

Divided Report

The Majority of the Committee on Legal Affairs on RESOLVE, Authorizing Larry R. Coffren of Strong to bring Civil Action against the State of Maine (H. P. 735) (L. D. 944)

Reported that the same Ought Not to Pass. Signed:

Sensors:

CHARETTE of Androscoggin
DANTON of York

Representatives:

DILLENBACK of Cumberland
McSWEENEY of Old Orchard Beach
SWAZEY of Bucksport
STOVER of West Bath
COTE of Auburn
COX of Brewer
PERRY of Mexico

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Sensor:

SHUTE of Waldo

Representatives:

HANDY of Lewiston
DUDLEY of Enfield

Come from the House, the Minority Report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-89).

Which Reports were Read.

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

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, I apologize for getting up twice in a row on two bills this morning, but that seems the way they were on the calendar.

What this Bill does is, and I would hope the Committee might Accept the Ought to Pass Report this morning, it would authorize Larry Coffren to go to Superior Court and try to reclaim some of the damage done to his trucks at his place of business in Strong, Maine. We have strong information that this was done by inmates that were on parole. I feel the State has some obligation if they're going to put people on probation or parole, they have some obligation to stand behind what actions these people make while out on probation.

Last year we had a bill that gave a person, I think, the right to sue the State for about fifty thousand dollars because an inmate put his hand through a pane of glass at the State prison and we were, certainly, probably responsible and negligent. I think we are also negligent and responsible and the Judiciary is responsible if they're going to have people out on probation that possibly should not be out amongst society and should be continuing to serve their sentence in a correctional institution.

I would hope this morning that you would reject the Ought Not to Pass Report and go along with the Ought to Pass Report.

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

Senator CHARETTE: Thank you, Mr. President, Women and Men of the Senate, as Senator Shute mentioned about the vandals that were identified by the State Police investigation. I'd like to add to that, it was originally thought that they were prison inmates out on a work release program on the weekend in question when the property of Mr. Coffren and several other Strong residents' property was damaged. However, it was later discovered that this was not so.

One vandal had been an inmate of the Maine State Prison and had been placed on probation in September of 1976. I would like to point out this extensive damage occurred November 6, 1976. So, that's two months before the incident. A second vandal had been released on bail in April of '76 pending appeal, and a third vandal had no connection with any State institution as of November, 1976.

Thus, none of the three were under supervision of any State institution on the date in question.

There was an identical Resolve, L.D. 1837, which was, also, heard by the Legal Affairs Committee in the 110th Legislature, and the Committee voted to grant the sponsor Leave to Withdraw in February, 1980, because the members believed that serious Constitutional problems existed in allowing Mr. Coffren to bring suits against the State.

I'd like to point a case Nadeau versus the State. In that situation, "must present materially unique facts and circumstances, giving rise to the assumption that there are no other similarly situated individuals being deprived of the privilege granted to the subject petitioner." In this case, there were at least five other individuals damaged by the vandals. This fact destroys the assumption that no other similarly situated individuals exists. So the thrust of the Nadeau decision was that the 14th Amendment to the U.S. Constitution limits the situations where one person can petition the Legislature for a special right to bring suit against the State, because to grant him this right, and not the other individuals, so situated, would violate principles of equal protection.

I'd like to point out finally, perhaps most importantly, there must be a legislative assessment that the State owes a moral obligation to the particular person. This brings into focus the relevance of the factual question of whether it appears the Parole Board was negligent in admitting Gordan Pinkham to Parole or

whether it appears the State was negligent in admitting Richard Pinkham to bail pending appeal. In the Committee's judgment, the evidence presented at the public hearing did not indicate negligence on the part of any State agency sufficient to warrant this required expression of legislative sentiment.

So, I move Ought Not to Pass Report on this.

The PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President, when the vote is taken I request that it be taken by the Yeas and Nays.

The PRESIDENT: 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 the motion by the Senator from Androscoggin, Senator Charette, that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Majority Ought Not to Pass Report.

A No vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Brown, Carpenter, Charette, Clark, Dow, Dutremble, Emerson, Erwin, Gill, Hayes, Kany, Minkowsky, Najarian, Perkins, Pray, Usher, Violette, Wood, The President—Gerard P. Conley.

NAY—Diamond, Hichens, McBreaity, Pearson, Sewall, Shute, Teague, Trafton, Twitchell. ABSENT—Bustin, Collins, Danton, Redmond.

A Roll Call was had.

20 Senators having voted in the affirmative and 9 Senators in the negative, with 4 Senators being absent, the motion to Accept the Majority Ought Not to Pass Report in non-concurrence, Prevailed.

Sent down for concurrence.

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

Senator CARPENTER: Mr. President, with reference to L.D. 820, Bill, "An Act to Deny Certain State Funds to Any Person Who Refuses to Register under the United States Military Selective Services Act." which the Senate this morning Accepted Report "A" Ought Not to Pass, I move that the Senate Reconsider its action and hope that you all vote against me.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Aroostook, Senator Carpenter that the Senate Reconsider its action whereby it Accepted Report "A" Ought Not to Pass. (H. P. 652) (L. D. 820)

Will all those Senators in favor of the motion of Reconsideration please say "Yes".

Will all those Senators opposed, please say "No".

A Viva Voce Vote being had, the motion to Reconsider, Failed.

Sent down for concurrence.

Senate Ought to Pass

Senator TRAFTON for the Committee on Judiciary on BILL, "An Act Relating to Training Penobscot Law Enforcement Officers" (S. P. 81) (L. D. 192) Reported that the same Ought to Pass.

Which Report was Read and Accepted. The Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Senator DUTREMBLE for the Committee on

Labor on BILL, "An Act to Revise the University of Maine Arbitration Procedures" (S. P. 187) (L. D. 610) Reported that the same Ought to Pass in New Draft under same title (S. P. 440) (L. D. 1:319)

Which Report was Read and Accepted. The Bill, in New Draft Read Once and Tomorrow Assigned for Second Reading.

Divided Report

Eight members of the Committee on Business Legislation on, BILL, "An Act Relating to Business, Travel or Recreation on Sunday" (S. P. 29) (L. D. 84)

Reported in Report "A" that the same Ought to Pass as Amended by Committee Amendment "A" (S-38).

Signed:

Senators:

CLARK of Cumberland
CHARETTE of Androscoggin
SEWALL of Lincoln

Representatives:

PERKINS of Brooksville
POULIOT of Lewiston
CONARY of Oakland
TELOW of Lewiston
BRANNIGAN of Portland

Four members of the same Committee on the same subject matter Reported in Report "B" that the same Ought Not to Pass.

Signed:

Representatives:

MURRAY of Bangor
MACBRIDE of Presque Isle
MARTIN of Van Buren
STEVENS of Bangor

One member of the same Committee on the same subject matter Reported in Report "C" that the same Ought to Pass in New Draft (S. P. 442) (L. D. 1321)

Signed:

Representative:

RACINE of Biddeford

Which Reports were Read.

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

Senator CLARK: Mr. President, I move that the Senate Accept the Majority Ought to Pass, as amended, by Committee Amendment "A" (S-38) Report.

The PRESIDENT: The Senator from Cumberland, Senator Clark, moves that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and Members of the Senate, I'm under no delusion that this Bill might fail, but I would be remiss in representing my area in central Maine, if I did not get up and express the reservations that have been strongly suggested to me. I've heard from our local Chamber of Commerce and the businesses in our area are very, very concerned that the only outcome of the Passage of this Legislation is that the smaller municipal areas, metropolitan areas, such as Waterville, will end up losing some business to the huge metropolitan areas, such as, Bangor or South Portland. It is for that reason that I'm sure that the businesses, in my area, are opposed to this Legislation.

All Senators on the Business Legislation Committee are in favor of this Legislation, and I realize that there's other Senate support, so I will not even move to Indefinitely Postpone it, but simply wanted to go on Record just to show that the people of Maine and those involved in trying to improve the State's economy are not universally in favor of this Bill.

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

Senator HICHENS: Mr. President, I did not realize this item was going to be on the calendar this morning, I did not prepare a statement, but I would like to ask for a Roll Call on

this issue.

I have lived all of my adult life next to the New Hampshire border and I've seen this same idea presented in New Hampshire where they opened just for the holiday season, from a certain time, from 1 o'clock to 5 o'clock. I saw them go from 10 o'clock to 6 o'clock and then finally open every Sunday of the year, and this is the same road that Maine will be going.

It seems coincidental that yesterday was the first day that the stores opened in Massachusetts on Sunday and I have a statement here, an editorial written in the Lewiston Journal where Massachusetts stores are reluctant about this Sunday opening. They have the same reservations expressed by Senator Kany about certain sections of the State being discriminated against, so to speak.

I listened to the debate, a couple of months ago, in which Senator Minkowsky was one of the prime speakers and which the gentleman from the shoe chain spoke in opposition. We received a lot of communication from this gentleman. I know, without a doubt, that Senator Minkowsky's intentions are good, that this would be just a certain time of the year in which these stores would be open; but I know without a doubt, that it's not going to be very long before they're going to come back with another bill and have them open all year-round.

I do not think this is good for the State of Maine. I think that we are desecrating Sunday enough as it is, without encouraging people to miss church services, and so-forth, to go out and get the bargains which will be presented to them.

As this gentleman from the shoe chain has said, people are going to spend just so much money whether they spend it in six days a week or seven days a week, it doesn't make any difference. I know there has been a lot of argument of fact that all of our business is going to New Hampshire. They just opened a new mall over there and there are a lot of Maine people that go over there, but Maine people are still going to go to New Hampshire, because they get their provisions and their merchandise tax free, and this Sunday business idea isn't going to help the State of Maine one iota as far as I'm concerned.

I hope you'll vote against the motion.

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

Senator GILL: Mr. President, during the testimony at the hearing on this particular Bill, the question was asked of each and every sponsor and cosponsor whether they were interested in having, opening of stores every Sunday, and whether they would be coming back in a future Legislature, to request that? To a person they said, No. I personally was not asked by the Chairman of the Committee on Business Legislation that day, but I certainly volunteered during the break that I have no intention as a co-chairman of coming back in a future Legislature and asking permission to open those Stores on any other Sunday other than the four that we had asked in the Legislature.

I think that most of you realized that the money that is spent those four Sunday's during those four weeks previous to Christmas is probably the most money that is taken in, in any business establishment in the State of Maine.

It is a shame to have people go to New Hampshire, and are now able to go to Massachusetts to do their shopping. It is a nice ride, I've heard families say this time, and time, again, It's Sunday, let's take a ride, let's do some shopping, together.

This is what we are doing, here we are in a Legislature that is concerned about finances, concerned about taxes, we have seen our projected revenues decrease as time goes on, the projections have not held up, and we have an opportunity here to keep some of our own busi-

ness right in the State of Maine those busy Sunday's prior to Christmas.

I, also, might add that I come from a very religious upbringing. We were not allowed to do much on Sunday at all. We spent most of Sunday in Church. Things have changed, and I want to just read, in 1963 there was a court case. It was the State against . . . it was a 1963 decision and the decision of the court was that the Legislature in enacting the section of the Statute, "had intended to retain a day of rest and recreation within enlarged bounds of permissible business activity on Sunday to meet the condition of today." Then it goes on, "it reflects a judgment by the Legislature with the changing times."

That was in 1962, I would maintain that things have continued to change, that within this year of 1983 we might look at this again, and keep the stores open for those four Sunday's prior to Christmas.

I, also, might relate that I have had opportunity to be in business myself, and I was one of those exempt stores that was allowed to open every Sunday, every holiday, because we were a drug store. I would like to tell you that my drug store was ten thousand square feet. I sold everything in that drug store from greeting cards to small appliances, toys, everything that you can imagine a large drug store would sell, and I appreciated the chance to be open.

There is discrimination that takes place between the small and the large and I would suggest that we give an opportunity for those, all those stores who wish to remain open on Sunday can remain open. Those that wish not to may close on those four Sundays.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate: I am very pleased with the Committee Report from the Joint Standing Committee on Business Legislation, on L. D. 84. It is probably one of the more controversial items that was presented, and will be presented before that Committee during this the First Regular Session.

I think that it is important for background that we review the current law. Presently, some Maine businesses, perhaps, most are allowed to open on Sundays, and obviously some are not.

The ones which may open on Sundays under the current law are: common contract and private carriers, hotels, motels, boarding homes, tourist and trailer camps, restaurants, garages, and motor vehicle service stations, retail monument dealers, automatic laundries, vending machines, satellite banking facilities, pharmacies, greenhouses, seasonal produce and Christmas tree stands, public utilities, pulp and paper, textile, other industries, marine and agricultural processing plants, mobile home dealers, ship chandleries, and marinas, boat and boat equipment stores, sporting goods stores, souvenir and novelty stores, motion picture theaters, dance halls, sports and athletic events, bowling alleys, firework displays, musical concerts, religious educational, scientific and philosophical lectures, may be held on the sabbath, scenic, historic, recreational, or amusement facilities may, also, be open, real estate agencies.

In addition to that admittedly rather lengthy list, any business, regardless of type, may open on Sunday if it has less than 5,000 square feet of customer selling space or employs no more than 5 persons. In other words, the law essentially prohibits retail merchants and grocers (and a few other businesses) from opening if they have larger stores. All the others under whatever umbrella you wish to hold over them may open.

L. D. 84 would permit those businesses presently prohibited from opening on Sundays to do so, but only on the Sundays which fall between Thanksgiving Day and Christmas Day.

If you look at Committee Amendment "A"

under filing number S-38 you can see that that opening is further restricted in time between the hours of noon and 5 p.m.

Let me share with you, ever so briefly, perhaps only in a statement or two, that the Committee deliberated most seriously and conscientiously on this issue. We provided for an opportunity for many State Legislators to send out questionnaires to members of their business and religious communities. We asked for a clarification from the Attorney General's office to make sure that any direction that we might present as our recommendation to this Legislature would be in fact Constitutional.

The Majority Report is reflected in our calendar of today, it is restrictive and it does provide retail establishments of all kinds to remain open on those four Sundays between Thanksgiving Day and Christmas, between the hours of noon and 5 p.m.

That is indeed responsive to our changing society, many of us reflect in our constituency non-christian members who are citizens of Maine, who observe their sabbath not on Sunday but rather on Saturday, or even beginning at sundown on Friday evening.

Yes, society is changing and yes we attempted to be responsive to the needs of our business community for indeed much of the quality of life here in the State is dependent on economic development.

We have tried insofar as possible to restrict the hours of opening on those four single Sundays to a time that would not infringe on the religious observance on the sabbath of christians. We would encourage all citizens of the State to participate in religious observances, particularly during that most holy time of the year, but to be responsive not only to the business community but to a wide range of citizens of this State we reported this Bill out amended with an Ought to Pass, Majority Ought Not to Pass Report and I would hope that when the vote is taken on a Roll Call that you would support the pending motion. Thank you, Mr. President.

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

Senator HICHENS: Mr. President, I can't sit here and take these arguments which have been presented by the two good lady Senators without a word of rebuttal.

Senator Gill read a statement about how times have changed since the 60s and I have seen times change since the 60s. I remember being over in the other Body when they had the Sunday Racing Bill, which was quite an item, and how they were telling how times had changed then, and so many things were coming up on Sunday that had never had been allowed to be a part of Sunday.

I, also, remember attending a testimonial for retiring Research Director Sam Slosberg when a portion of a poem that he had handing in his office was read, in which he said "that he was very happy on a Sunday morning about six o'clock hearing the Catholics go to church that he was a Jew, and could sleep late on Sunday mornings." Since that time the Catholic church has had masses on Saturday nights so the Catholic people who want to go to church on Saturday night can sleep late on Sunday morning, or spend the day going shopping, recreation, whatever they want to do.

Sunday has gone to such an extent that in our town and I imagine that there are other towns throughout the State schedule their junior high football game at 11 o'clock on Sunday morning so the protestant people who have their services Sunday mornings if their youngsters want to be on the football team they can not go to Sunday school or church.

I think that we are going the wrong way by allowing stores to be open all day on Sunday's even if for a limited time. I appreciate the intentions expressed by the sponsors of this Bill, that they have no intention of going on a year-round basis, but we may have other people

lected to the Legislature next time who will come in who will have different ideas, and so that may be changed.

I don't know how early in life it was that I heard my father first say, and I heard him say a great many times before he died, "That the road to hell is paved with good intentions."

The PRESIDENT: 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 the motion by the Senator from Cumberland, Senator Clark that the Senate Accept Report "A" the Majority Ought to Pass, as amended, Report of the Committee.

A Yes vote will be in favor of the motion to Accept the Majority Ought to Pass Report.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS—Baldacci, Brown, Carpenter, Charette, Clark, Collins, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gill, Hayes, Minikowsky, Najarian, Sewall, Trafton, Usher, The President—Gerard P. Conley.

NAYS—Hichens, Kany, McBreairty, Pearson, Perkins, Pray, Shute, Teague, Twitchell, Viollette, Wood.

ABSENT—Bustin, Redmond.

A Roll Call was had.

20 Senators having voted in the affirmative and 11 Senators in the negative, with 2 Senators being absent, the motion to Accept Report "A", Majority Ought to Pass, as amended, Report of the Committee, Prevailed.

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

Senator CLARK: Mr. President, having voted on the prevailing side I would move Reconsideration whereby L. D. 84 the Majority Ought to Pass, as amended, Report of the Committee was Accepted by this Chamber and hope that all of you will vote against me.

The PRESIDENT: The pending question before the Senate is the motion by Senator Clark of Cumberland to Reconsider Acceptance of Report "A".

Will all those Senators in favor of Reconsideration, please say "Yes."

Will all those Senators opposed, please say "No."

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

The Bill Read Once.

Committee Amendment "A" (S-38) was Read and Adopted.

The Bill, as amended, Tomorrow Assigned for Second Reading.

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

Senator CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: the reason that I rise this morning is to introduce a lady who is visiting us here today. I had asked to have the honor and privilege of introducing this gracious lady, because she once introduced me in her chamber many, many miles to our south.

I wouldn't begin to read her biographical sketch because it would take up the rest of the morning, it is quite lengthy and quite impressive, suffices to say that she is a graduate of Smith College, formerly worked on the New York Herald Tribune and then went back to her home, and I suspect her first love, the great State of South Carolina.

I happen to have the occasion to visit a dear

friend of mine in Columbia, South Carolina, about four years ago, and found out the Legislature was in session and being a good old political war horse had to run down to the State House to see how their chamber functioned, and watched while they debated in both the House and the Senate.

While I was there this young lady was presiding over the South Carolina Senate in her role as Lieutenant Governor of the great State of South Carolina.

This lady was first elected in South Carolina House of Representatives in 1974 and she served on the Education Committee, and the House Ways and Means Committee. As I said she has a rather extensive and impressive biographical sketch, I will not attempt to read, but I would ask the members of the Maine Senate to join me in giving a nice Maine welcome to the immediate past Lieutenant Governor of the great State of South Carolina, Mrs. Nancy Stevenson. (Applause the Members rising)

Second Readers

House

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

BILL, "An Act to Clarify and Establish the Boundary Line Between the Town of Bowdoinham and the Town of Bowdoin" (H. P. 633) (L. D. 784)

BILL, "An Act Concerning the Compensation of County Personal Board Members" (H. P. 672) (L. D. 855)

BILL, "An Act to Coordinate Regulatory Review" (H. P. 808) (L. D. 1048)

BILL, "An Act to Clarify the Definition of Approved Training in the Unemployment Compensation Program" (H. P. 983) (L. D. 1284)

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

House — As Amended

BILL, "An Act Relating to Handicapped Parking Space Designation" (Emergency) (H. P. 580) (L. D. 728)

BILL, "An Act to Limit Access to Confidential Data" (H. P. 573) (L. D. 721)

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

Senate

BILL, "An Act Making Additional Appropriations, Authorizations and Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Year Ending June 30, 1983" (Emergency) (S. P. 432) (L. D. 1295)

BILL, "An Act Concerning Guidelines for State Contract Process and Appeal of Decisions" (S. P. 437) (L. D. 1316)

Which were 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:

An Act Concerning Persons who Assist in Mitigating the Effects of Discharge of Hazardous Materials. (S. P. 126) (L. D. 313)

An Act to Enable Administrative Court Judges to Sit in Superior Court. (S. P. 149) (L. D. 440)

An Act Concerning Appeals by the State in Criminal Cases. (S. P. 236) (L. D. 678)

An Act to Revise the Laws Pertaining to Prejudgment Attachment, Execution of Judgments, Disclosure of Assets and Exemptions. (H. P. 267) (L. D. 327)

An Act to Clarify Municipal Regulation of Motor Vehicles on Ice-covered Bodies of Water. (H. P. 915) (L. D. 1168)

An Act to Require the Department of Labor to Make Available to all Claimants for Unemployment Insurance the Complete Set of All Department of Labor Rules and Policies Governing the Determinations of Eligibility and

Payment of Benefits. (S. P. 387) (L. D. 1170)

Which were Passed to be Enacted and having been signed by the President, were 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 Relating to Claims to Real Property" (H. P. 973) (L. D. 1271)

Tabled—March 25, 1983 by Senator CARPENTER of Aroostook

Pending—Reference

(In House referred to the Committee on Judiciary)

On motion by Senator Pray of Penobscot referred to the Committee on Taxation and Ordered Printed, in non-concurrence.

Sent down for concurrence.

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

BILL, "An Act to give Alternates the right to Vote on a School Board" (H. P. 626) (L. D. 778)

Tabled—March 25, 1983 by Senator CARPENTER of Aroostook

Pending—Enactment

(In House March 24, 1983 Failed of Passage to be Enacted)

On motion by Senator Carpenter of Aroostook Retabled for 1 Legislative Day.

On motion by Senator Carpenter of Aroostook, Adjourned until 9 o'clock tomorrow morning.