

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

INDEX

FIRST CONFIRMATION SESSION

August 4, 1983

INDEX

FIRST SPECIAL SESSION

September 6 and 7, 1983

INDEX

SECOND CONFIRMATION SESSION

September 23, 1983

INDEX

THIRD CONFIRMATION SESSION

October 28, 1983

INDEX

SECOND SPECIAL SESSION

November 18, 1983

INDEX

STATE OF MAINE
One Hundred and Eleventh Legislature
First Regular Session
JOURNAL OF THE SENATE

Augusta, Maine
May 18, 1983

Senate called to order by the President.

Prayer by the Reverend Jack Shankel, District Superintendent of Maine, District Church of the Nazarene of Augusta.

REVEREND SHANKEL: Shall we pray! Our Father, You tell us in Your Word that praise exalteth a Nation and surely there is a disposition in our hearts this morning to offer to Thee our gratitude and our praise.

We are so grateful for health, and strength, and life itself, and the privilege of being able to work together in a free land. We're glad for the many manifold blessings of life that You have bestowed upon us; things that sometimes we do take for granted.

We thank You for a Nation called America, a free land. We thank You for the joys, and the freedoms, and the liberties that we experience and we believe, because of Thy love and grace.

We would offer to Thee a special prayer, this morning our Father, for the privilege of living in the State of Maine with all the wondrous beauty that surrounds us on every side and of this beauty, Our Father, not just that which is of the natural sense growing from the ground, the lakes and the streams; but for the beauty of the people that we associate with day in and day out. We thank you for the people of Maine.

We ask, our Father, that as we enter into the deliberations and the work and the responsibilities of this day that we might not only be cognizant of the fact that we are responsible to an electorate, but Father, we are ultimately responsible to Thee. May we do our work well as would be pleasing in Thy sight.

We would ask Your special blessing upon our Senate President, this morning as he guides this Body through the Legislative maze of parliamentary procedure. Give to him insight and understanding, wisdom. We recognize that all authority and all power ultimately cometh from God, and it is Thee ultimately with Whom we will have to do.

Give each Member of the Senate, today, insight and understanding and courage of their convictions. O God, we pray that when the final gavel is sounded and finally this session has paroled for the duration, and the final period has been penned and all of the annals of the Legislative Record, that we might be able to look back over the work that we have done, and may we be able to say that it was good and that we had a part in it. Bless to this end, we ask in faith and in confidence, even in the Name of Jesus, our Lord. Amend.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

BILL, "An Act to Protect the Public from Unsafe Pesticide Use." (S. P. 553) (L. D. 1602)

(In Senate, May 16, 1983 Passed to be Engrossed.)

(Comes from the House Passed to be Engrossed as Amended by House Amendment "A" (H-245) in non-concurrence.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

It is a vote.

Non-concurrent Matter

BILL, "An Act to Make Extreme Anger or Extreme Fear Brought About by Adequate Provocation an Affirmative Defense which Reduces Murder to Manslaughter, and to Create the Crime of Intentional or Knowing Manslaughter." (S. P. 447) (L. D. 1368)

(In Senate, May 9, 1983 Passed to be En-

grossed.)

(Comes from the House Passed to be Engrossed as Amended by House Amendment "A" (H-247) in non-concurrence.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? It is a vote.

Non-concurrent Matter

BILL, "An Act to Regulate Smoking on Public Conveyances in the State of Maine." (H. P. 829) (L. D. 1067)

(In House, May 16, 1983, Majority Ought to Pass in New Draft (H. P. 1211) (L. D. 1604) Report Read and Accepted and the New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-240).)

(In Senate, May 17, 1983, Minority Ought Not to Pass Report Read and Accepted in non-concurrence.)

(Comes from the House, that Body Insisted and Asked for a Committee of Conference.)

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

Senator BUSTIN: Thank you, Mr. President, I move that the Senate Insist and Join in the Committee of Conference.

The PRESIDENT: The Senator from Kennebec, Senator Bustin moves that the Senate Insist and Join in a Committee of Conference. The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, I would hope that we would oppose the motion to Insist and Ask for a Committee of Conference that we could Adhere and request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of voting to Insist and Join in a Committee of Conference, please rise in their places to be counted.

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

26 Senators having voted in the affirmative, and 6 Senators having voted in the negative, the motion to Insist and Join in a Committee of Conference, Prevailed.

Non-concurrent Matter

BILL, "An Act Concerning the Size of Exempt Lots Under the Subdivision Laws." (S. P. 462) (L. D. 1411)

(In Senate, May 16, 1983, Minority Ought Not to Pass Report Read and Accepted.)

(Comes from the House, the Majority Ought to Pass as Amended by Committee Amendment "A" (S-122) Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-122) in non-concurrence.)

On motion by Senator Carpenter of Aroostook, Tabled for 1 Legislative day, pending Further Consideration.

Non-concurrent Matter

BILL, "An Act to Prohibit Smoking in Indoor Public Waiting Areas" (H. P. 597) (L. D. 741)

(In House, May 12, 1983 Majority Ought to Pass in New Draft under New Title. BILL, "An Act to Regulate Smoking in Public Buildings" (H. P. 1203) (L. D. 1597) Report Read and Accepted and the New Draft Passed to be Engrossed.)

(In Senate, May 16, 1983, Minority Ought Not to Pass Report Read and Accepted in non-concurrence.)

(Comes from the House, that Body Insisted.)

The PRESIDENT: Is it the pleasure of the Senate to Adhere?

It is a vote.

House Paper

BILL, "An Act to Promote Efficient Completion of the State Weatherization Program" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (Emergency) (H. P. 1207) (L. D. 1606).

Reference to the Committee on Energy and

Natural Resources suggested.

Comes from the House referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Reference.

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 Related to the Labeling of Milk Containers" (H. P. 972) (L. D. 1270)

BILL, "An Act to Apply Mirror Reciprocity Against Jurisdictions that Assess 3rd Structure Motor Vehicle Taxes" (Emergency) (H. P. 974) (L. D. 1272)

Ought to Pass as Amended

The Committee on Judiciary on BILL, "An Act to Discourage Frivolous Court Cases" (H. P. 759) (L. D. 990) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-243).

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-243).

Which Report was Read.

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

Senator TRAFTON: Mr. President and Members of the Senate, if you'll bear with me a minute I simply want to clarify the Legislative intent as to L.D. 990.

This Bill has been reported out of the Judiciary Committee unanimously with Committee Amendment "A". It is the intention of the Committee in making this Amendment and reporting this Bill out favorably to provide that when a judge, justice, jury, fact-finder, returns a decision or verdict totally for the defendant on all claims of the plaintiff, that the court can then make a determination as to whether the plaintiff's claim was frivolous or instituted for the purpose of delay.

If the court finds that it was either of these, then the defendant can be reimbursed reasonable attorney's fees, costs and expenses. However, if the finder of fact finds with the plaintiff on one of the plaintiff's claims, but for the defendant on any other claims, that may have been assertive by the plaintiff, then it is our intention that the defendant not be entitled to seek attorney's fees or other costs or expenses at all.

I've risen simply to clarify this because there has been a little bit of confusion since the plaintiffs often present multiple claims simultaneously and the jury and other fact-finder may find for the plaintiff on some and for the defendant on some. I trust this answers any questions as to Legislative intent on this Bill. Thank you.

(Off Record Remarks)

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

Senator BALDACCI: Mr. President and Members of the Senate, I'd like to ask a question through the presiding officer to anyone that would care to answer it in regards to L. D. 990.

The two questions that I have would be that at the public hearing that the Judiciary Committee held on this Bill, were there many people that complained that there were a lot of frivolous cases being heard?

The second question would be are there a lot of frivolous cases that are being introduced in court that we would need this kind of law? It seems like it would sort of discourage anyone from going to court to present a case, because of this kind of retribution, if they did lose in all

counts. I don't understand the Judiciary process, but I just was wondering.

The PRESIDENT: The Senator from Penobscot, Senator Baldacci has posed a question through the Chair to any Member of the Judiciary Committee who may respond if they so desire.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President and Members of the Senate, to answer, or to attempt to answer the question from the good Senator from Penobscot, Senator Baldacci. The committee did not see that there was a major problem as to a high number of frivolous cases in court, however, currently the Maine Statutes and the Maine Rules of Court provides that in the event of a frivolous appeal to the Maine Supreme Judicial Court acting as the Law Court, costs can be awarded to the other party that bore the expense of defending an appeal to the Maine Supreme Judicial Court.

This Bill simply extends that ability to a party to requests costs, including attorney's fees to the other levels of court, District Court and Superior Court. In the event a case is deemed to be frivolous or brought for the purpose of delay so that, in summary, there's not a major problem with many frivolous cases being brought in our Judicial System. However, on occasion there is a frivolous case and it was the intent of the Committee to provide a bill to the Legislature that would protect a party who bore unnecessary costs in defending this frivolous case to recover those costs from the party, who probably should not have brought the case in the first place. Thank you.

Which Report was Accepted in concurrence.

The Bill Read Once.

Committee Amendment "A" (H-243) was Read and Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that this Bill be given its Second Reading at this time?

It is a vote.

Under Suspension of the Rules, the Bill, as amended, Read a Second Time and Passed to be Engrossed in concurrence.

Ought to Pass in New Draft

The Committee on Business Legislation on BILL, "An Act to Authorize Out-of-state Credit Unions to Conduct Business in this State (H. P. 948) (L. D. 1229) Reported that the same Ought to Pass in New Draft under same title (H. P. 1226) (L. D. 1620)

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

Which Report was Read and Accepted in concurrence. The Bill in New Draft Read Once.

The PRESIDENT: Is it the pleasure of the Senate that this Bill be given its Second Reading at this time?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

Ought to Pass in New Draft Under New Title

The Committee on Education on BILL, "An Act to Provide for Self-insurance for State Elementary and Secondary School Buildings" (H. P. 625) (L. D. 777) Reported that the same Ought to Pass in New Draft under New Title, RESOLVE, Authorizing the Department of Educational and Cultural Services to Conduct a Study of Self-insurance of Public School Properties (H. P. 1223) (L. D. 1619)

Comes from the House, the Report Read and Accepted and the New Draft under New Title Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Resolve in New Draft under New Title Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Committee on Health and Institutional Services on BILL, "An Act to Include the Poverty Tax Abatements in Net General Assistance Costs" (H. P. 242) (L. D. 289)

Reported that the same Ought Not to Pass

Signed:

Senators:

BUSTIN of Kennebec

GILL of Cumberland

Representatives:

WEBSTER of Farmington

SEAVEY of Kennebunkport

RICHARD of Madison

PINES of Limestone

MAYBURY of Brewer

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-242)

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

BRODEUR of Auburn

CARROLL of Gray

MELENDY of Rockland

NELSON of Portland

MANNING of Portland

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

Which Reports were Read.

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

Senator CARPENTER: Mr. President, I move Acceptance of the Ought to Pass Report.

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

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Mr. President and Members of the Senate, this Bill was debated long and hard in our Committee. One of the things that I wanted you to know about this Bill is that I have very great feelings about mixing General Assistance with Tax Abatements and that's what this Bill is all about. As a matter of fact, the department now allows Tax Abatements but on a case by case basis. They make the decision as to whether that Tax Abatement should be given or shouldn't be given.

What this Bill is, is to write that prerogative into law so that any community will be able to, if they need the guidelines of the General Assistance, that we're rewriting right now and I know what those guidelines are, if a town meets those guidelines, they will be able to get those tax abatements for any low income person that they prefer to.

I don't mind a low-income person getting a Tax Abatement any more than I would mind an Elderly Tax Refund Bill that's been put through here and working very well. I don't mind that, but I think it ought to be debated on its own merits. That it ought to be debated as a Tax Abatement issue, not as a General Assistance issue. Keep in mind I'm probably one of the biggest advocates for those people who are less fortunate than ourselves, and I would be the first one you would think to support this Bill.

If you look at the Committee Report it looks very strange to you given what side I'm always on. That's for a very good reason. It's for the reason that, I think, that this doesn't help the low income. What it helps is the towns. What it does is allow the towns to get money back for their taxes they can't get from the low income; in fact, they could put a lien on that property. If you give that Tax Abatement to the town, they now have the tax money; they now don't have to address raising their tax base and getting the money from their own taxes, because the State is now going to pay for it.

What happens when we have to come back in here and ask the Appropriations

Committee for more money for General Assistance, because we've given all those Tax Abatements? What happens then? I'll tell you what happens. What happens is that we have to come back here, raise taxes on our State level, so that we can pay for the town taxes. Does that make some sense to you? What that really does is take away the ability to give the kind of General Assistance we need to those people who really need it.

Now the other issue is that if you have Tax Abatements being given what you actually have is, you now have a piece of property that has equity in it. You give that tax abatement. You've given that release to the town, not actually to the recipient, the welfare recipient. When that piece of property is sold and there has been equity in it, where do you think the extra money is going to go? Because there is nothing in this Bill that indicates that any of that money will be paid back to the town and then pay it back to the State. All we're doing is asking the State eventually to raise more taxes to meet this Bill.

I ask that you defeat this motion and allow me to make the appropriate motion which is the Ought Not to Pass Report. I 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 rise not to debate the merits of the Bill, but to apologize the Senator from Kennebec, Senator Bustin who I had requested earlier permission of to Table this Bill one day, and then I decided that we might as well go ahead and run it, and I neglected to inform her of that and I apologize to her for that, and I would hope that now somebody would Table this 1 Legislative Day.

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

Divided Report

The Majority of the Committee on Judiciary on BILL, "An Act to Amend the Interception of Wire and Oral Communications Law" (H. P. 845) (L. D. 1095)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-244)

Signed:

Senators:

TRAFTON of Androscoggin

VIOLETTE of Aroostook

COLLINS of Knox

Representatives:

DRINKWATER of Belfast

LIVESAY of Brunswick

FOSTER of Ellsworth

HAYDEN of Durham

JOYCE of Portland

HOBBINS of Saco

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

Signed:

Representatives:

REEVES of Newport

BENOIT of South Portland

SOULE of Westport

CARRIER of Westbrook

Comes from the House with the Majority Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-244)

Which Reports were Read and the Majority Ought to Pass, as amended, Report of the Committee was Accepted, in concurrence.

The Bill Read Once.

Committee Amendment "A" (H-244) was Read and Adopted, in concurrence.

The Bill, as amended, Tomorrow Assigned

for Second Reading.

Senate

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 Relating to the Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded" (Emergency) (S. P. 279) (L. D. 844)

BILL, "An Act to Reduce the Amount Municipalities Outside the Maine Forestry District must Pay for Controlling and Extinguishing Forest Fires" (S. P. 30) (L. D. 85)

BILL, "An Act to Remove the Statutory Requirement for Payment of Fees by Baxter State Park to the Maine Forest Service for the Forest Fire Protection" (S. P. 27) (L. D. 28)

Ought to Pass in New Draft

Senator PEARSON for the Committee on Energy and Natural Resources on BILL, "An Act to Create the Nuclear Activity Consent Law" (S. P. 167) (L. D. 522) Reported that the same Ought to Pass in New Draft under same title (S. P. 564) (L. D. 1631)

Which Report was Read and Accepted. The Bill in New Draft Read Once.

The PRESIDENT: Is it the pleasure of the Senate that this Bill be given its Second Reading at this time?

It is a vote.

Under Suspension of the Rules, the Bill 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 to Designate the Division of Eye Care as the Agency for the Provision of Certain Services to Blind Children. (H. P. 1198) (L. D. 1589)

An Act to License Waste Oil Dealers and to Include Waste Oil Within Coverage of the Maine Hazardous Waste Fund. (H. P. 389) (L. D. 472)

An Act to Establish the Position of Director of Technical Analysis within the Public Utilities Commission. (H. P. 963) (L. D. 1244)

An Act to Clarify the Administration of the Department of Labor. (S. P. 333) (L. D. 978)

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 Improve Access to Small Claims Court. (H. P. 480) (L. D. 577)

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

Senator TRAFTON: Mr. President and Members of the Senate, in reference to L. D. 577 which has been set aside, I would move the Indefinite Postponement of this Bill and all its Accompanying Papers.

There has been previous debate on this particular Bill. I would not repeat that debate, but I do wish to call to your attention that this Bill, "An Act to Improve Access to Small Claims Court." (H. P. 480) (L. D. 577) is not a peoples' bill; it's a tax Bill. This is a Bill which will, in fact, put a major cost on our Judicial System. There have repeated attempts to open Small Claims Courts in evening hours. In fact, the brother of our good Senator from York, Senator Danton attempted this in one of the southern districts in the State. That attempt was unsuccessful. People simply will not come out at night to file small claims. They will not come out at night to court to argue in Small Claims Court. This is an experiment that has been tried and it has failed.

My point today in rising and in moving the Indefinite Postponement is to say, "Why spend the money?" We don't have the money available and I suggest and request that you vote with

me in the Indefinite Postponement of this measure.

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

Senator WOOD: Mr. President, Men and Women of the Senate, I would request a Division on the pending motion and would urge you to vote against the motion to Indefinitely Postpone. We did debate this the other day. There might be a cost attached to this and when there is a cost attached to a Bill, obviously, it would lie on the Appropriations Table and then it would take its, it would rise or fall on its merits along with the other bills when we decide our priorities. I think this Bill has enough merit to, at least, go that far in the process. I would hate to see us start eliminating bills now that have some merit because there is no money. As Chairman of the Taxation Committee I obviously don't like to see taxes raised, but if there is merit, if there is a need in this State, obviously, that's the choice we have to make.

I would urge that we would not kill this Bill. It seems to me that it does provide some access; it is only going to be used for two years to see if it does work. A change in this State goes extremely slow and I think change in the Judiciary is even slower, and maybe in two years time it will be determined that the experiment failed but let us try it and see if it does work.

I would say that my view of the courts is that it's really the dark underside of our Governmental System; it's not well understood. Very few people have very little to do with it and I think this would be an attempt to put a little sunshine in that dark underside.

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

Senator BALDACC: Mr. President and Members of the Senate, when this Bill was discussed last week I spoke in opposition to this Bill, because I felt that there were a lot more needs in other courts that would serve more people. Even though in this Bill it's going to improve the access to the Small Claims Court, which is for a lot mill towns offers those working people an opportunity to, at night, rather than take time off from work and lose pay, it offers them an opportunity to go into court at night without losing that.

In Bangor most of the people are service people and they work day and night. In reviewing this and discussing this with my brother, who is an attorney, even though it would help not in the Bangor area it would help in other sections throughout the State of Maine. I have been wanted to be on Record as for supporting this Bill and would request a Roll Call when the votes are taken.

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

Senator DANTON: Mr. President, would the Secretary please read the Committee Report?

The Committee Reports were Read.

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

Senator DANTON: Mr. President and Members of the Senate, many times we have bills of this nature and I know that some have a dim view of the courts, but I think that the courts have served us well. When you stop and think that every time a court bill usually comes to the Maine Legislature it is scrutinized and usually defeated.

Now we're talking about Small Claims Court one hour a week at night. What in your fondest imagination do you think could possibly happen in one hour, at night. Why it would probably take a judge forty-five minutes to put his robe on. You know you just can't get anything done. This is not a new idea it is an idea that has been kicked around for a long time.

Now if we really want to do something to help those working people that we're so concerned about let's appoint three more district court judges, at least, let's put ten more court employees on and let's take the busiest courts,

and I can speak with some knowledge of this, maybe some of you don't know it but I did have, my late brother as Chief Judge of the Maine District Court, so this problem is not something that I am not aware of. You know give the courts the judges, give them the people to work nights.

If you were a State employee working for the court system and you're hired to work daytime, would you work at night? Do you think that the unions would allow you to work at night? It would be no different than any other agency, namely immediately the Bureau of Alcoholic Beverages, when they tried to increase the hours from 5 p. m. to 8 p. m. they had to go into negotiations all over again.

This seems like a very simple matter, a people's bill, but you know who is really going to use that hour at night? Not the little guy, that big cooperation that wants to make the little guy after he has worked all day long to earn his money get him into court to pay his bills. That is who is going to benefit. The little guy most usually has worked hard all day long.

If you want to set up a system and have it fair for that little person, that I am sure everyone is concerned about do it right. Give the court more judges, give them more personnel, pick the courts where that problem exists, not one hour, per week. That is not the way to attack this problem.

We've had this Bill before and it has been defeated before, and I would hope today that the Bill gets defeated and I know that it is a nice little Bill and it can go onto the Appropriations Table, but I think that it is time that if we didn't have to put in on the Appropriations Table that we didn't do it. Thank you.

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

Senator TRAFTON: Mr. President, Members of the Senate the good Senator from York, Senator Wood described this Bill as a "Sunshine Bill" for our courts to finally let the sunshine through the windows and to open the doors of our court houses throughout the State. I would remind you that our courts are just as open as the third floor of the State House. The court procedures are open to the public, they are held, those sessions are held, during the daytime just like our own sessions.

Yes there maybe some misunderstanding of how our courts operate, but it not due to the hours or the openness of our courtroom procedures. I suggest that this Bill is not a Sunshine Bill it is more appropriately a noon light bill. We are requiring court employees to work after hours at night, at a greater cost to the State.

In answer to the question, why not send it down to the Appropriations Table to see if there's enough money to fund an idea that has merit, I respectfully suggest that the idea has no merit. The idea has been tried, the idea has failed, why waste the Appropriations Committee's time with this type of bill? Thank you.

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

Senator BALDACC: Mr. President, I have a question for anyone on the Judiciary Committee, or anyone who would care to answer it, and a comment.

In this Small Claims procedures for us laypeople, are there mediators or fact-finders that are engaged in the process by our Judicial System that are paid seventy-five dollars a case, that is already included in our Judiciary Account? We are paying these people and isn't it possible working within that night court that these people could be utilized?

I can understand the Senator from York's concern about pulling in these judges at all hours of the night to have these cases heard to allow these people to have a fair hearing, but I think that we have people we are paying money to, to mediate at seventy-five dollars a case in small claims cases to bring the parties together rather than have it come to court. It

would be my understanding that we could better utilize that aspect of our procedures and pay them so much for the week or for handling cases.

I think that there is an opportunity, I think, to work with this structure of small claims at night and there are changes that have to be made. Thank you, Mr. President.

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

Senator KANY: Mr. President and Members of the Senate Senator Baldacci is absolutely correct in that there are mediators used in the Small Claims Court and very successfully I might add. It has been a pilot project for the last few years and I have gone, visited Portland for instance to view it, and visited other courts just because for some reason the Small Claims Court being a people's court and not needing lawyers has just always been a sentimental favorite of mine.

I am not the primary sponsor of this Bill, by the way, I just feel very strongly that we should try and improve our Court System and the accessibility to it at any time.

I would, also, point out regarding employees of the Court System that we do allow flextime, this Legislature in the last few years has just gone on record in public policy of supporting the idea of flextime, so that people can come into work, let us say later in the day and work later on in the evening sometimes if it is more convenient for them or more convenient for the people that they serve.

Once again I would remind you that the Chief Judge of the District court could offer more flexible hours to the courts but that that has not been the practice and that this is an opportunity to have one hour in the evening in each of the Small Claims Courts, just once a month.

I urge you to please stick with your earlier vote in strong support of this Bill and to vote against the pending motion which is Ought Not to Pass.

I would just like to mention two items briefly. One is that I was over the Motor Vehicle Division the other day and I was very pleased to see that on Thursday evenings, anyway, every week, they keep that division, that office open til 7:30 p.m. just for the convenience of the public.

I don't think that it is too much to ask that we try this just for a two year period and then could evaluate it then.

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

Senator VIOLETTE: Mr. President and Ladies and Gentlemen of the Senate, I am not so much opposed to this concept other than that if the Legislature of the State of Maine wishes to have a night court then it ought to establish a night court. It ought not to call upon the same personnel that have to operate the courts during the daytime to operate a night court.

All this Bill says is that you have to have one hour per month in each of the Small Claims Courts. I don't know what you are going to do in one hour per month, if in fact the district court doesn't wish, or the Small Claims Court which is held in the district court, doesn't want to hold any more than that amount of time.

I think that if the concern here is to offer availability of time in the evening then we ought to operate in those areas where it is economically feasible for such a court on a regular basis. In those areas were it is not economically feasible such as where there is one such judge operating in an area where he has four or five courts that judge and his staff will have to hold court in excess of one every week. There are Small Claims Courts there are district court judges that have four and five courts apiece, who have minimal staff. I don't know where you are going to get somebody to come in the evening to operate those courts. In Aroostook Court the Northern Division has five courts

with only one judge. I am not exactly sure how this Legislation is going to deal with this situation? Who is going to operate that court in the evening. We're not just talking about a couple of mediators here. Somebody has to go in and run the facility as well as there has to be somebody there to operate the court.

I do not think that this is the Portland situation at all where the case load might be sufficient to call upon having such a court on a regular basis.

I think that if the intention of the sponsors is to have night court then they ought to provide for the personnel to operate those courts on a regular basis.

It is only for that reason that I voted against this matter. I think that this approach to dealing with this problem if, in fact, it is a problem is a very inappropriate one. Either do it right or don't do it, and this is not doing it right at all. So I would hope that today you would reconsider your action in a sense, because I do realize that many of you have voted for this matter.

I only wish to highlight the concerns that I have and to share them with you as to why I voted against this Bill in Committee, and why I voted against it on the floor. I know that the concept has, that there is a feeling for this concept, but on the other hand I think that one has to look at the realities of how the court is going to handle this. What is one hour per month in each court going to do? I don't think that it is going to do anything, if that is what it is going to be limited to.

I think that you ought to be, also, concerned about what is going to happen in those areas of the State where one judge handles numerous numbers of courts. This Bill doesn't address that problem. Maybe the Senator from York, Senator Wood can enlighten me as to exactly how this is going to operate in areas, in other areas of the State other than York, or Cumberland County and some of the large metropolitan areas.

I would hope Ladies and Gentlemen of the Senate this morning that you would in fact, (I am in a quandary at this point as to what the motion is) I would hope that you would vote for Indefinite Postponement this morning. Thank you.

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

Senator TRAFTON: Mr. President and Members of the Senate, I rise to answer the question of the good Senator from Penobscot, Senator Baldacci as to mediators. This issue is really a non-issue but I rise to clarify the question and hopefully remove it from your concern. Mediators have no power to decide a small claims case, they can only make a recommendation to the judge who sets in the Small Claims Court. Consequently even though mediators are there present working with the parties to a small claim case that mediator must report back to the judge of the Small Claims Court. The judge must be present and then a decision is made to either accept the agreement of the parties as a result of mediation or to go to a hearing before the judge on the claim itself. So that mediation isn't a solution to this problem.

The point that the good Senator from Aroostook, Senator Violette makes as to the judge that covers three, four and five district courts is a very important one, because in some of these district court which double as Small Claims Courts there maybe only one employee. The clerk of that court herself or himself and that means that that one person is the only person trained in managing the Small Claims Court. So that flextime is not possible in this situation, the court is open during the day and if the court is open at night that same person must come back, as the judge who has sat in that court during the day must come back to hear one hour of Small Claims Cases.

My experience in small claims cases, limited as it is, suggests to me that small claims cases

themselves usually take more than one hour to resolve. They are not based on courtroom procedure or the rules of evidence that often it is storytelling by each side. Those stories take longer than a normal court case. One hour per month is not sufficient to deal with very many small claims cases.

As I indicate the experiment has been tried it has failed let's stop this bill here and now. I urge you to support my motion for Indefinite Postponement.

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

Senator WOOD: Mr. President, Men and Women of the Senate just a couple of points. I am not sure how this Bill will work in reality since I am neither the sponsor nor am I a lawyer or intimately connected with the Court System. But it seems to me that one need only to look at the recent results of the referendum on court building to see that there is a lack of support, a lack of understanding, and a lack of trust in our court system and unless we take some measures to reverse that trend we are going to continue to see a lack of trust, a lack of appreciation and a lack of support for our Court System.

Since I have been in this Legislative Body I have seen various attempts by Legislators sincere attempts to change the Court System and they have always been rebuffed. It frankly irritates me because at the same time that these are rebuffed I do not see the courts making changes to account for the suggestions that we have made.

I find it interesting to note that all of a sudden one hour a month is not adequate. I would suggest that the sponsor suggested one hour a month to be reasonable not to overburden the courts to give them some flexibility and when we give that reasonableness and flexibility we are chastized for not being stringent enough.

What we are doing here is trying to say that for the next two years there will be one hour per month, in the Court System set aside in the evening for small claims issues. I do not think that that is a burdensome thing. We are now in double session we are here well into the evening, we expect our staff to be here, we expect a number of State workers to be here. That is the cost of running government, that will be the cost of running government in the courts.

I think at this point in time this issue demands our attention, it demands being placed on the Appropriations Table, and it demands to rise and fall on its merits.

If you think that one hour a month is burdensome then you should vote against it. I choose to believe that that one hour a month could be well spent and maybe if the judges think that they need more time then that is their prerogative, but at least give them one hour a month in the people's court. Thank you.

The PRESIDENT: Is the Senate ready for the question?

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 Trafton to Indefinitely Postpone L. D. 577.

A Yes vote will be in favor of Indefinite Postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Brown, Charette, Clark, Collins, Danton, Dutremble, Emerson, Gill, Hayes, Hichens, Minkowsky, Najarian, Pray, Sewall, Teague,

Trafton, Usher, Violette.

NAY—Baldacci, Bustin, Carpenter, Diamond, Dow, Erwin, Kany, McBreairty, Pearson, Perkins, Shute, Twitchell, Wood, The President Gerard P. Conley.

ABSENT—Redmond.

A Roll Call was had.

18 Senators having voted in the affirmative and 14 Senators in the negative, and 1 Senator being absent the motion to Indefinitely Postpone L. D. 577 in non-concurrence, Prevailed.

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

Senator TRAFTON: Mr. President I would move Reconsideration and ask the Senate to vote in the negative.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Trafton that the Senate Reconsider its action whereby L. D. 577 was Indefinitely Postponed.

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

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

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: A Division, Mr. President.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Reconsideration, please rise in their places to be counted.

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

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: May I ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order by 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 Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President, and Members of the Senate, I urge you to reconsider just keep this little Bill alive. Send it to the Appropriations Table, after all this is a citizens government and I would hope that our government would exist for the convenience of the citizens, not just for the people who run it. I urge you to keep this alive, and allow this particular option to be given an opportunity. It would be just one hour once a month and I would hope that we could try that for two years.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is Reconsideration.

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Bustin, Carpenter, Diamond, Dow, Erwin, Kany, McBreairty, Minkowsky, Pearson, Perkins, Shute, Twitchell, Wood, The President Gerard P. Conley.

NAY—Brown, Charette, Clark, Collins, Danton, Dutremble, Emerson, Gill, Hayes, Hichens, Najarian, Pray, Sewall, Teague, Trafton, Usher, Violette.

ABSENT—Redmond.

A Roll Call was had.

15 Senators having voted in the affirmative, and 17 Senators in the negative, with 1 Senator being absent, the motion to Reconsider, Failed.

Sent down for concurrence.

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

On motion by Senator Najarian of Cumberland, placed on the Special Appropriations Table, pending Enactment.

An Act to Address School Failure in Kindergarten and Early Elementary Grades. (H. P. 1066) (L. D. 1404)

On motion by Senator Najarian of Cumberland, placed on the Special Appropriations Table, pending Enactment.

An Act Relating to Drinking in Public. (S. P. 420) (L. D. 1273)

Comes from the House, Indefinitely Postponed.

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

RESOLVE, Authorizing and Directing the Commissioner of Agriculture, Food and Rural Resources to Promote Regional and International Cooperation in the Development of Agricultural Programs Designed to Encourage Greater Food Production, Marketing and Food Self-sufficiency Among the States of New England and Quebec and the Maritimes. (S. P. 324) (L. D. 969)

On motion by Senator Najarian of Cumberland, placed on the Special Appropriations Table, pending Enactment.

Orders of the Day

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

BILL, "An Act to Create a Student Seat on the Board of Trustees of the University of Maine" (H. P. 24) (L. D. 29)

Tabled—May 16, 1983 by Senator PRAY of Penobscot

Pending—Enactment

(In House May 13, 1983 Failed of Passage to be Enacted)

On motion by Senator Pray of Penobscot, Retabled.

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

An Act Relating to Victims Bill of Rights (H. P. 1192) (L. D. 1578)

Tabled—May 17, 1983 by Senator PRAY of Penobscot

Pending—Enactment

(In House May 16, 1983 Passed to be Enacted)

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

On motion by Senator Pray of Penobscot the Senate voted to take from the Table:

BILL, "An Act to Promote Efficient Completion of the State Weatherization Program" (H. P. 1207) (L. D. 1606)

Tabled earlier in today's session on motion by Senator Pray of Penobscot, pending Reference.

On motion by Senator Pray of Penobscot referred to the Committee on Appropriations and Financial Affairs, and Ordered Printed, in concurrence.

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

Papers from the House House Papers

BILL, "An Act to Create a Maine Potato Dealers' Licensing Board" (H. P. 1206) (L. D. 1605)

Reference to the Committee on Business Legislation suggested.

Comes from the House, referred to the Committee on Agriculture and Ordered

Printed.

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

BILL, "An Act Amending the Charter of the Telephone Workers Credit Union of Maine" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1219) (L. D. 1626)

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 Provide Additional Revenue to the Department of Inland Fisheries and Wildlife Through an Increase in License Fees" (Submitted by the Department of Inland Fisheries and Wildlife pursuant to Joint Rule 24) (H. P. 1208) (L. D. 1607)

Comes from the House referred to the Committee on Fisheries and Wildlife and Ordered Printed.

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

BILL, "An Act to Require Life Preservers to be Used by Canoeists" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1220) (L. D. 1627)

Comes from the House referred to the Committee on Fisheries and Wildlife and Ordered Printed.

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

BILL, "An Act to Clarify the Status of Workfare Recipients under the Workers' Compensation Act" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1221) (L. D. 1628)

BILL, "An Act to Debar from State Contracts Employers Guilty of Willful or Repeated Violation of Safety Standards" (Submitted by the Department of Labor pursuant to Joint Rule 24) (H. P. 1222) (L. D. 1629)

BILL, "An Act to Provide Authority to the Department of Labor to Receive Federal Funds in Order to Expand the Workplace Safety Compliance Consultation Program" (Submitted by the Department of Labor pursuant to Joint Rule 24) (Emergency) (H. P. 1225) (L. D. 1630)

Come from the House referred to the Committee on Labor and Ordered Printed.

Which were referred to the Committee on Labor and Ordered Printed, in concurrence.

BILL, "An Act to Establish Job Development and Entrepreneurial Training Funds Within the State Development Office" (Submitted by the State Development Office pursuant to Joint Rule 24) (H. P. 1229) (L. D. 1634)

Comes from the House referred to the Committee on State Government and Ordered Printed.

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

On motion by Senator Pray of Penobscot the Senate voted to Reconsider its action of earlier in today's session whereby BILL, "An Act to Require Life Preservers to be Used by Canoeists" (H. P. 1220) (L. D. 1627) was referred to the Committee on Fisheries and Wildlife.

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

Senator PRAY: Mr. President, I move that this Bill be given its First Reading at this time.

The PRESIDENT: The Senator from Penobscot, Senator Pray moves that L. D. 1627 be

given its first Reading at this time without Reference to Committee.

Is this the pleasure of the Senate?

It is a vote.

Under Suspension of the Rules, on motion by Senator Pray of Penobscot, the Bill Read Once Without Reference to Committee and Tomorrow Assigned for Second Reading.

(Off Record Remarks)

Senator Pearson of Penobscot was granted unanimous consent to address the Senate, Off the Record.

Senator Pray of Penobscot was granted unanimous consent to address the Senate, Off the Record.

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