

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

STATE OF MAINE
One Hundred and Twelfth Legislature
First Regular Session
JOURNAL OF THE SENATE
In Senate Chamber
Wednesday
March 6, 1985
Senate called to order by the President.

Prayer by The Reverend Richard Russell of the Crouseville Advent Christian Church in Crouseville.

REVEREND RUSSELL: Gracious Father, Jehovah, reverently we stand in recognition that Thou art the Almighty God. Humbly we've come into this Chamber, to the place of our duty, with an awareness of the responsibility that is laid upon human shoulders, to help govern this sovereign State and its citizens. For that reason we call on Thee, all wise God and confess that at times our knowledge and/or our experiences fail.

I beseech Thee to give to each Senator this day a heavenly wisdom, that righteousness might prevail and that wisdom may produce the gracious way of life for all.

So help us to do that which is right and grant that our motives and words may be seen as acts of kindness, for we pray in the Name of the One who embodied all truths and grace, Jesus Christ. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Permit Beano on Sundays after Noon" (S.P. 259) (L.D. 669)

In Senate February 28, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-6)**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-6) AS AMENDED BY HOUSE AMENDMENT "A" (S-11)**, thereto in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

House Papers

Resolve. Creating a Special Commission to Study Teacher Training in the University of Maine System (Emergency) (H.P. 644) (L.D. 914)

Bill "An Act Concerning Interest on Subsidies Provided to Medical and Veterinary Students" (H.P. 653) (L.D. 923)

Comes from the House referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Relating to the Season and Penalties under the Bucks Only Law" (H.P. 645) (L.D. 915)

Bill "An Act to Regulate Fishing Derbies" (H.P. 646) (L.D. 916)

Comes from the House referred to the Committee on **FISHERIES AND WILDLIFE** and **ORDERED PRINTED**.

Which were referred to the Committee on **FISHERIES AND WILDLIFE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Relating to Protection from Abuse Law" (H.P. 647) (L.D. 917)

Bill "An Act to Amend the Law Relating to Spousal Elective Shares under the Probate Code" (H.P. 648) (L.D. 918)

Comes from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Clarify the Law Regarding the

Taking of Soft-shell Clams" (H.P. 654) (L.D. 924)

Comes from the House referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **MARINE RESOURCES** and **ORDERED PRINTED**, in concurrence.

Resolve, Concerning State Government Reorganization (H.P. 649) (L.D. 919)

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.

Bill "An Act Pertaining to the Terms of Members of Transit District Boards" (H.P. 650) (L.D. 920)

Comes from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning Payment of Trustees of the Kingfield Water District" (Emergency) (H.P. 651) (L.D. 921)

Bill "An Act to Amend the Charter of the Portland Water District" (H.P. 652) (L.D. 922)

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which were referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

Joint Orders

The following Joint Order: (H.P. 655)
ORDERED, the Senate concurring, that Bill "An Act Pertaining to the Observance of Veterans Day," H.P. 200, L.D. 234, be recalled from the legislative files to the House.

Comes from the House, **READ** and **PASSED**.
Which was **READ**.

THE PRESIDENT: In accordance with Joint Rule 15, Subsection 10, this Joint Order requires a two-thirds vote for passage.

Will all those Senators in favor of this Joint Order receiving Passage, please rise in their places to be counted.

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

33 Senators having voted in the affirmative and No Senators having voted in the negative, and 33 being more than two-thirds of the membership present and voting, the Joint Order was **PASSED**, in concurrence.

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
AUGUSTA, MAINE 04333
March 4, 1985

Ms. Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, Maine 04333
Dear Ms. O'Brien:

In accordance with Executive Order No. 11 FY 83/84, dated June 1, 1985, I am submitting the final report of the "Governor's Advisory Committee for the Development of a Rail Transportation Policy for the State of Maine" to the 112th Legislature.

Sincerely,
S. DANA F. CONNORS
Commissioner

Which was **READ** and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication:

STATE OF MAINE
OFFICE OF THE PRESIDENT

AUGUSTA, MAINE 04333

March 5, 1985

Hon. Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, ME 04333
Dear Madam Secretary:

Please be informed that pursuant to my authority under S.P. 121, I have appointed the following Senators to the Joint Select Committee to Study the Shoe Industry in the State:

Senator John Tuttle
Senator Paul Gauvreau
Senator Jerome Emerson

Please let me know if you have any questions in this regard.

Sincerely,
S. CHARLES P. PRAY
President of the Senate

Which was **READ** and **ORDERED PLACED ON FILE**.

SENATE PAPERS

Bill "An Act Relating to Odometer Readings" (S.P. 342) (L.D. 933) (Presented by Senator **SEWALL** of Lincoln)

Bill "An Act Concerning the Licensing of Small Maine Breweries" (S.P. 343) (L.D. 934) (Presented by Senator **SEWALL** of Lincoln) (Cosponsored by: Senator **PERKINS** of Hancock)

(See Action Later Today)

Which were referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Establish an Advisory Committee on the Recommendation and Nomination of Judges" (S.P. 344) (L.D. 935) (Presented by Senator **CHALMERS** of Knox) (Cosponsored by: Senator **SEWALL** of Lincoln, Representative **DRINKWATER** of Belfast)

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not To Pass

The following **Ought Not to Pass** report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Convert Customer Charges to Minimum Charges for Small Electric Companies" (H.P. 247) (L.D. 288)

Senate at Ease

The Senate called to order by the President.

Ought to Pass

The Committee on **HUMAN RESOURCES** on Bill "An Act to Allow Transmittal of Certificates of Illegitimate Births to Other Municipalities" (H.P. 169) (L.D. 203)

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**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act to Amend the Law Concerning Pension Benefits for Dependents of Sheriffs" (H.P. 149) (L.D. 183)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-9)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-9)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.
Committee Amendment "A" (H-9) **READ** and **ADOPTED**, in concurrence.
The Bill as **Amended TOMORROW ASSIGNED FOR SECOND READING**.

Senator **VIOLETTE** of Aroostook was granted unanimous consent to address the Senate Off the Record.

On motion by Senator **PERKINS** of Hancock, **RECESSED** until the sound of the bell.

After Recess

The Senate called to order by the President.

Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act Concerning Expiration of Motor Vehicle Drivers' Licenses for Persons 65 Years of Age and Older" (H.P. 209) (L.D. 243)

Reported that the same **Ought to Pass**.

Signed:

Senator:

SHUTE of Waldo

Representatives:

MACOMBER of South Portland
POULIOT of Lewiston
McPHERSON of Eliot
MILLS of Bethel
STROUT of Corinth
THERIAULT of Fort Kent
CAHILL of Woolwich
CALLAHAN of Mechanic Falls

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

Signed:

Senators:

ERWIN of Oxford
DANTON of York

Representatives:

MOHOLLAND of Princeton
SOUCY of Kittery

Comes from the House with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Reports were **READ**.

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

Senator **DANTON**: I move that the Senate accept the Minority Ought Not to Pass Report.

The **PRESIDENT**: The Senator from York, Senator Danton moves that the Senate accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Oxford, Senator Twitchell.

Senator **TWITCHELL**: I ask for a Division.
The **PRESIDENT**: A Division has been requested.

Will all those Senators in favor of the motion of the Senator from York, Senator **DANTON** to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report of the Committee, please rise in their places to be counted.

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

14 Senators having voted in the affirmative, and 18 Senators having voted in the negative, the motion to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report **FAILED**.

The Majority **OUGHT TO PASS** was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

(Off Record Remarks)

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Restrict the Payment of Unemployment Compensation Benefits to Workers Who are on Strike" (H.P. 175) (L.D.

209)

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

DUTREMBLE of York
TUTTLE of York

Representatives:

RUHLIN of Brewer
BEAULIEU of Portland
HALE of Sanford
JOSEPH of Waterville
TAMMARO of Baileyville

The Minority of the same Committee on the same subject reported that the same **Ought to Pass**.

Signed:

Senator:

BLACK of Cumberland

Representatives:

LANDER of Greenville
BEGLEY of Waldoboro
BONNEY of Falmouth
HEPBURN of Skowhegan
WILLEY of Hampden

Comes from the House, Bill and accompanying papers **RECOMMENDED** to the Committee on **LABOR**.

Which Reports were **READ**.

On motion by Senator **VIOLETTE** of Aroostook, the Bill and accompanying papers **RECOMMENDED** to the Committee on **LABOR**, in concurrence.

Senate

Ought Not To Pass

The following **Ought Not To Pass** report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (Emergency) (S.P. 1) (L.D. 3)

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 Clarify the Laws Relating to Schools of Barbering and Schools of Cosmetology" (S.P. 60) (L.D. 86)

Ought to Pass As Amended

Senator **BUSTIN** for the Committee on **HUMAN RESOURCES** on Bill "An Act to Ensure Consistency Between 2 State Laws Concerning Personal Care Assistance Services" (S.P. 35) (L.D. 43)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-7)**

Which Report was **READ** and **ACCEPTED**.
The Bill **READ ONCE**.

Committee Amendment "A" (S-7) **READ** and **ADOPTED**.

The Bill as **Amended TOMORROW ASSIGNED FOR SECOND READING**.

(Off Record Remarks)

SECOND READERS

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

House

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1985 (Emergency) (H.P. 549) (L.D. 761)

Bill "An Act to Create a Seamen's Memorial Day" (H.P. 137) (L.D. 162)

Bill "An Act to Designate 'Pertica quadrifaria' the Official Fossil of the State of Maine" (H.P. 222) (L.D. 256)

Bill "An Act Clarifying the Laws Relating to Fireworks" (H.P. 543) (L.D. 755)

Bill "An Act to Deputize National Marine Fisheries Service Officers, United States Coast

Guard Personnel and Law Enforcement Personnel of other States as Department of Marine Resources Marine Patrol Officers and to Define Possession" (H.P. 631) (L.D. 775)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

Bill "An Act to Make Administrative Changes in Truck Weight Tolerances" (H.P. 224) (L.D. 258)

Which was **READ A SECOND TIME**.

The **PRESIDENT**: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER**: Mr. President and Members of the Senate, could I have somebody explain this issue to me, please? Thank you.

The **PRESIDENT**: The Senator from Franklin, Senator Webster has posed a question through the Chair to any Senator who may care to may answer.

On motion by Senator **DANTON** of York, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED**.

ENACTORS

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

An Act to Authorize an Additional Brigadier General Position in the Maine Army National Guard (H.P. 120) (L.D. 145)

An Act to Clarify the Term "Authorized Person" Under the Law Relating to Deaths and Burials" (S.P. 258) (L.D. 651)

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

Resolve

Resolve, Authorizing the Director of Parks and Recreation to Convey by Deed the Interest of the State of Maine in Certain Parcels of Real Property. (S.P. 37) (L.D. 45) (C "A" S-4)

Which was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Pertaining to Law Enforcement Officers and Public Office Holding (H.P. 467) (L.D. 616)

Comes from the House **FAILING OF ENACTMENT**.

On motion by Senator **PEARSON** of Penobscot, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

On further motion by same Senator Senate Amendment "A" (S-8) was **READ**.

The **PRESIDENT**: The Senator has the floor.

Senator **PEARSON**: Mr. President, Men and Women of the Senate, this is an Amendment to remove the Emergency clause from the Bill dealing with the service of State Police officers who are serving on local school boards and local boards of selectmen and other nonpartisan boards.

It is not necessary that it be an emergency. It has had some difficulty in the other Body—never had any here, but I am attempting to remove the Emergency clause.

Senate Amendment "A" (S-8) was **ADOPTED**.

Which was **PASSED TO BE ENGROSSED as Amended**, in **NON-CONCURRENCE**.

Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act to Relocate the Supreme Judicial Court and Related Functions to the State Capitol at Augusta" (H.P. 485) (L.D. 688)

Tabled—March 5, 1985, by Senator

VIOLETTE of Aroostook
Pending—**REFERENCE**
(Committee on **JUDICIARY** suggested and
ORDERED PRINTED.)

(In House March 1, 1985, Bill and accompanying papers **INDEFINITELY POSTPONED**.)
The Bill and accompanying papers were **INDEFINITELY POSTPONED**, in concurrence.

Senator **VIOLETTE** of Aroostook was granted unanimous consent to address the Senate On the Record.

Senator **VIOLETTE**: Mr. President, Ladies and Gentlemen of the Senate, I'd intended to make these comments at the close of this morning's session, but as we are waiting for papers from the House, I shall make these comments now in order to expedite the time of this Body.

These comments that I have might relate in some way to a number of Legislative Sentiments I had on this morning's calendar. Senator Matthews has his team this afternoon, mine is in Van Buren, but Items 4-4 through 4-8 related to the Van Buren High School Basketball Team; it has not been quite as successful as the Senator's team, but nonetheless a team of which, where I come from we are extremely proud of.

It is a substantial sacrifice for young people who take part in athletic competition; particularly, from the more remote parts of this State — it is a tremendous sacrifice for them. The amount of time and the cost that is ensued by these individuals in order to take part in athletic events because of the distances involved, are simply staggering.

For this tournament alone, the Van Buren High School Basketball team traveled three different times to Bangor to play three games. Inside of a span of six days traveled twelve-hundred miles: because they could not afford to stay overnight—because that wonderful institution in the State of Maine called the Maine Secondary School Principals' Association (which is a creation of their own) has a surplus of two-hundred and sixty-eight thousand seven hundred and seventy-five dollars, and who by the way, you would think their greatest claim to fame would be that surplus, and not the best interests of athletics or academics in our high school; decided a few years ago to stop subsidizing distances to take part in their tournaments.

It used to be Van Buren and other teams traveling a long distance to go to tournaments, they would help subsidize part of the costs; but this means now, that when Van Buren attends a tournament in Bangor, or other towns that come from distances far away, the town either has to pay the expenses or the team has to return that same day. It's grossly unfair; it's unjust to those individuals taking part in that sport, because what it means is that they have to bear a greater burden than other teams who must travel a much shorter distance. It hurts their capability in competing as well. I think that's truly unfortunate, and you would think that the MSPA would be more concerned about the young men and women that are taking part in these athletic and academic enterprises, than they would be of how much money they have in their surplus.

This study that came up out of the Joint Standing Committee on Education this summer was as a result of Legislation that was introduced by a Member of the other Body. What it really says is "that we have an institution here in this State which nobody created other than themselves, which isn't accountable to anybody, and which basically can do what it darn well pleases."

This is one Senator who takes issue with the actions of the MSPA as they relate to the matters I have discussed, and would like to certainly think that this particular institution will reconsider its actions.

We lost the Eastern Maine Regional Finals in Bangor to a team, a very good team, that only

had to travel fifty-five miles to get to that tournament. By the way, when our team went down to that tournament — I happen to come from a kinda of a poor town — and the school budget couldn't afford to keep those kids there overnight, so their parents had to help them stay there overnight or else they went back home. So they played a game Thursday night and they had to drive back home and come back Saturday — driving eight-hundred miles to get to two tournament games.

The Senator from Houlton, Senator Carpenter, knows well what I'm talking about, one of his teams was more fortunate than mine. They even had to come down to Augusta to play in the State tournament, and they live a little closer to Bangor, but nonetheless have to travel a substantial distance.

I think the comments made by the coach of the Van Buren District High School Team, Mr. John Hebert, are most appropriate. It is the first time since 1960 that the Bangor Auditorium was full. Twenty-five years ago when John Bapst played Bangor, that auditorium was full, and it took a team from Van Buren, Maine, two-hundred miles away to fill that gym! I'm proud of those people, but nonetheless, what I'm saying is that you know we have a policy here by entity that I'm not sure who controls it and who decides what it ought to be doing. It isn't exactly like the teams coming from distances like Van Buren hurt the gate at all.

Senator McBreairty knows these teams were very successful and went on to win the State championship. These teams bring people to Bangor, help their economy, and pay the Maine State Principals Association money, so that they can have a balance of almost three hundred thousand dollars in their account.

Well, this is one Senator that just wants to go on record as saying that he is very displeased with this particular institution, and would certainly hope that that institution would reconsider its policy as it relates to all teams.

I speak because I come from an area of some distance from wherever tournament games are held. But this is not an issue that relates only to Van Buren, the Valley, or Aroostook County; it relates to everybody. I am sure that there are teams from York County who have some distance to travel to Augusta for the tournaments that are held up here for western Maine.

So I do not mean to belabor this issue, but I just wish to raise this matter in the minds and consciousness of the individual members. Thank you, Mr. President.

Out of order and under suspension of the Rules the Senate considered the following:

COMMITTEE REPORTS

House

Divided Report

The Majority 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. 37) (L.D. 39)

Reported that the same **Ought to Pass in New Draft** under same title: (H.P. 643) (L.D. 897)

Signed:

Senator:

STOVER of Sagadahoc

Representatives:

PERRY of Mexico

RIOUX of Biddeford

DILLENBACK of Cumberland

E.M. MURPHY of Berwick

MASTERMAN of Milo

NICKERSON of Turner

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

Signed:

Sensors:

TRAFTON of Androscoggin

NAJARIAN of Cumberland
Representatives:

REEVES of Pittston

PAUL of Sanford

WARREN of Scarborough

BOTT of Orono

Comes from the House with the Majority **Ought to Pass in New Draft** under same title Report **READ** and **ACCEPTED** and the Bill in **New Draft** under same title **PASSED TO BE ENGROSSED**.

Which Reports were **READ**.

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

Senator **TRAFTON**: Thank you, Mr. President. I move Acceptance of the Minority Ought Not to Pass Report.

THE PRESIDENT: The Senator from Androscoggin, Senator Trafton moves the Acceptance of the Minority Ought Not to Pass Report.

The Chair recognizes the Senator from Washington, Senator Brown.

Senator **BROWN**: Mr. President, I would request a Division on that motion and would like to speak to my motion.

THE PRESIDENT: The Senator has the floor.

Senator **BROWN**: Thank you. The good Senator from Androscoggin, Senator Trafton is urging that you accept the Minority Ought Not to Pass on this particular issue.

Let me go through just a little bit of the background as to why this is before us and what it contains. Originally L.D. 39, (you'll find it in your book) was drafted under title: "An Act to Deny Certain State Funds to any Person who Refuses to Register under the U.S. Military Selective Services Act." The bill was designed to reinforce the Federal law for registration. In the original bill, L.D. 39, the Governor was to determine which State programs were to be included under this denial provision. The Governor has already done that and a new bill, L.D. 897 has been reported out by the majority of the Legal Affairs Committee.

In the new bill, the language is as follows: "Any person who is required to present himself and submit to registration and who fails to do so is ineligible to receive any State funded grants, scholarships or loans made available to persons enrolled in post-secondary educational programs." Now I ask you, ladies and gentlemen of the Senate what is wrong with that?

What I am saying is that this bill will give a priority, and we have to rank priorities, and we have to do that daily in our work of giving financial assistance to those who have met the responsibility and the law which says that they have to register (period).

The Supreme Court has ruled that similar measures to withhold federal tuition assistance are constitutional, on the basis that the determination of priorities for the allocation of limited resources is proper. To reward equally for noncompliance with the law is contrary to everything that we believe in as law-abiding people.

I believe that the 99% compliance that you will hear about in a few moments from the opposition is a very admirable trait of the young people of this State. This percentage of compliance has not always been the case. We might hear that 1% is too small to worry about because it only represents about 700 people within the State of Maine.

The added expense and trouble of administering the law is a non-issue and you'll hear more about that. The applications for Federal assistance has a single entry on it, the same can be true for the State application.

For those who believe philosophically that resistance to war can best be determined by nonregistration—that is up to them; I respect that. If they choose to break the law to make a stand then that is a personal conscience, but for those people who make such a determination, even though the law requires otherwise,

it is my belief that they should not share in the benefits of community programs.

The 111th Legislature (passed during the special session) set up the Blaine House Scholars Program that has about \$500,000, in it and will jump up to a million dollars fairly soon. The Student Incentive Scholarship Program has \$750,000 in it this year. This simple bill states that one of the requirements to be eligible for those State programs is that you have to register as the law requires. Again, men and women of the Senate, what is wrong with that?

THE PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Mr. President and Men and Women of the Senate, this is not the first time that this bill has been before us; it was here once last year.

In my opinion it is a bill that is totally unnecessary, because it doesn't accomplish anything. I mean by that, as the good Senator from Washington, Senator Brown has indicated, we already have close to 100% compliance anyway.

I am the Chairman of the Selective Service Board for Penobscot County and I have been to training sessions on Selective Service registrations, and that sort of thing.

We are asked from time to time, how is it that we can get people to sign up on a timely basis and get the word out over the last several years? Guidance directors in high schools put the word out, and it is on bulletin boards in schools. Most everybody who is eighteen, by the time that they turn eighteen within a week or so they remember. Oh yes I've got to sign up and they do, to the tune I understand of a figure of 99% in this State. I dare say that some of the ones that haven't signed up, probably, just have forgotten about it, and it isn't a matter of not wanting to do it in the case of many people.

The thing that bothers me most about this bill is, as others have said, I think that it discriminates. It discriminates in lots of different ways. First of all it discriminates against men. I have a Selective Service registration form that I picked up yesterday at the Post Office in Augusta, which calls upon you to do some very simple things; date of birth, and then it says; sex male or female. Now you only have to do this if you are a male. That aside, that being so obvious it doesn't need to be emphasized very much.

There are other things that are discriminatory with reference to this bill. One is that it is designed to prohibit people who are going to our public universities from getting help in the form of scholarships, and I assume loans for those people who didn't sign up for Selective Service, but only at our public universities, post-secondary schools. This State, as a matter of policy several years ago, two or three years ago, gave tuition tax credits for people who send their sons and daughters (sons in this case is all that we are really concerned about) to Colby, Bates, Bowdoin or private institutions. They won't be asked the question, but their parents are given a tax break, a public tax break for sending their students there. I didn't favor that when it passed, because I think that we have enough problems to run one university, let alone several other small private ones, but nevertheless, it is there. So it discriminates you see. If you go to Bowdoin, Bates, or Colby and you receive public tax breaks for going there or your parents do, you don't have to worry about this; but if you go to a public institution such as the University of Maine System, no matter whether it be Fort Kent, Presque Isle, Orono, Machias, or whatever, you have to answer this question.

It also has other problems with it, I think, in that how do they find out who has signed up for Selective Service? How much money

does it cost to run that program to hire somebody to check all of these things out?

You have over 99% compliance and that is almost perfect. Now this piece of legislation is being put on that is going to cost the University some money, the University System, or the various campuses of the University System. Some money to hire somebody to bird-dog this thing.

It is a totally unnecessary bill, but it is very appealing for those people who want to go out and wrap themselves in the flag. Now I want you to know that I don't consider somebody who has never been in the service, that is a male, to be unpatriotic. I happen to be a veteran, I happen to be the Chairman of the Selective Service Board in Penobscot County, but I don't think that that has anything to do with patriotism or anything else. I just believe that a person ought to sign up. The Federal Government has a \$10,000. fine if you don't sign up, five years in prison maximum penalty and that is enough. Why put this other layer on this same thing that is working just fine is redundant and unnecessary.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Stover.

Senator **STOVER:** Thank you, Mr. President. Mr. President, Members of the Senate, I signed out this Bill from my Committee as Ought to Pass. It is a simple straight forward type of bill. All it says is that when you get to be eighteen years old you register under this Act.

It would seem to me from what the previous speaker just said it is well publicized. Apparently everybody knows about it; so those people who don't sign up do it deliberately, and not because they don't know that it is required of them. They just do it because they just don't want to do it.

Also, he says that the Federal Government has already got a \$10,000. fine—probably that is enough. Well, I feel that we should aid and abet the Federal Government; we are all in this together.

That reminds me of a story of a couple of fellows who hired a sailboat one day and got about a mile or so offshore in the middle of a big storm. The boat started to take on water, so one of the men started to bail out. The water was gaining on him so he says to his friend "come on, help me! The boat is sinking!" He says, "what do you care, we don't own it?" Well anyway, it is the same principle here. We are all in this together. We are all getting the benefits from this wonderful land that we live in, and over the years, thousands of boys died so that we would have this way of life that we have today.

Back in 1939 everybody said that we aren't going to register. Probably some of us in this Chamber today would be saying "Heil Hitler" or talking the Japanese language. So it seems to me that this is a straightforward type of thing. All we are asking them to do is to register so their name will be on file in case an emergency comes up.

We are all in it together, and I think that we all partake of the benefits, and we should at least, participate in the system.

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

Senator **CARPENTER:** Mr. President, and Ladies and Gentlemen of the Senate, I rise today in opposition to the bill before us. The good Senator from Penobscot, Senator Pearson pretty well, I think, stated my opposition to this Bill. However, I am concerned that there is a mood, and it has not been expressed here directly; but I have heard it, and that is, that if you vote against this Bill, somehow you are not patriotic, and if you vote for this Bill, then that certifies your patriotism.

I am not going to bore the Senate this morning with a great long floor speech, most of you recognize me as one of your resident Vietnam Nam Veterans. I can quote "Flanders Field" and talk about the beaches at Iwo Jima. I can

talk about the Ashel Valley and Fooby, and places like that; and probably if we were in a different company could recite a few ditties from the 101st Airborne Division, but I guess that perhaps just by patriotism, now let me get to the issue.

The issue here is, are we going to require our public institutions of higher education to ratify or to enforce a Federal Law or seven-tenths of a Federal Law? I guess you could say because we apparently have almost a 100% compliance in this State.

I don't think that we are really too serious about that. It is very discriminatory. If I put a piece of legislation in here that said, "before you can go to the University of Maine at Orono or any branch campus that if you happen to be a woman from Lewiston you have to do more than a man from Fort Kent. You'd laugh me out of this Chamber. Or if I said that if you are a man over the age of 25 from Fort Kent, you have to do more than a man under the age of 25 from Portland. But that is exactly what this Bill does, but it does it subtly. It is not up-front; it is not out in the open; it doesn't say that if you are an 18 year old male from a low or middle income family, who might have to apply for educational assistance to go to our public universities, that you are going to be screened in this manner; but if you are an 18 year old male from a well-to-do family you don't have to do that.

We just had a caucus on this issue and it was brought out to me by somebody not in this Chamber, a possible amendment to this Bill, if we are serious about this. I will try to offer this amendment to the Bill if it survives this test. That is very simple.

Senator Pearson has already told you about the tax breaks that are given to all the various institutions of higher learning in this State, regardless of income level. I never have applied for a loan or a grant, and I am a graduate of the University of Maine at Orono, and a couple of years ago most of you will remember a graduate of the University of Maine School of Law. I want to publicly stand here today and thank all of you, and all the people of the State of Maine for subsidizing my education; because you did, make no mistake about it, but I would never would have been screened. In fact I don't think that I ever signed up for the draft. I don't have a draft card from back in the 1960's perhaps because I was a member of the ROTC department at Orono so I didn't have to. I don't know. Maybe, in fact, I violated the law back then. I don't honestly know. I didn't do it intentionally.

If we are serious about this, then let's require every institution of higher education in this State that receives public assistance, public tax dollars, subsidies or whatever you want to call them in anyway, to screen each and every applicant, (male applicant I am sorry) to their schools; and before they can be accepted into the school where they're going to get the benefit of the subsidy of the tax dollar, regardless of whether they get a loan or not—but before they can be accepted into the school—they must register or their application is summarily rejected.

Now I submit to you, and when I brought this up in caucus there were snickers, and I was told that this was just a friendly amendment, to kill the Bill. I would not deny that; but, I would say to you that if you are serious about this issue, if you want to deny, as the good Senator from Sagadahoc, Senator Stover just said—if you want to deny to people who refuse to register for the Selective Service System, if you want to deny to those people the benefit of our public supported education system—then this is the way to go about it. That way you only get males, but you only get males from all segments of our society; at least, everybody who is under the Federal Law is required to sign up. I would submit to you that that is a more fair way to go about the process.

So I really want you to think about this. I know that there is a lot of support out there for this. I think that there is a perception by the people, by some of our constituents, that a great number of people don't sign up. I happen to be a card carrying member of the American Legion, a card carrying member of the Veterans of Foreign Wars, and I am on the Board of Directors of the Vietnam Veterans Leadership Program. I think that there is a perception out there that a lot of people are not signing up for the Selective Service. We have the statistics to show that that is just not so.

I want you to think how many of your constituents when you were running for election said, "for gosh sake, don't go to Augusta and pass any stupid laws that aren't needed, that aren't enforceable." I think that this is a prime example of that kind of legislation. Ask yourself if you really believe that this is needed, that it is proper, or is simply pandering to an emotion, to an emotion and a misperception that persists out there? Thank you.

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

Senator **TRAFTON:** Thank you, Mr. President. Mr. President I want to express appreciation to my colleagues here in the Senate for supporting my Committee's Ought Not to Pass Report. It is wonderful for a Chairman not to have to stand up and support his own Committee Report, and I just want to voice that appreciation.

I did want to add one point to this debate, because it is the point that I think is important. Mr. President, when you were sworn in in December, as we all were sworn in in December, we took an oath, an oath to support and uphold the Constitution of the State of Maine. It appears to me that this particular bill, if it were to be enacted, would in fact, violate our Constitution and the Federal Constitution, because this particular area of legislation has been preempted by action in Congress. As you know, it is already a violation of Federal Law if you fail to register under the United States Military Selective Service Act.

There are penalties prescribed in an Act of Congress; there is a basic theory of law that once Congress moves to legislate in a particular area, the states are thus preempted from legislating in that same area. We have seen this doctrine applied in the area of nuclear waste, the control of nuclear power, interstate commerce and the like. So I feel that this particular bill has some severe Constitutional problems and that issue should be considered when you vote on this particular motion.

I think that the real basis for my vote on this particular issue, however, is that no problem exists. As Senator Carpenter describes, "why pass a law when no problem exists?" We have the second highest compliance rate in the United States. There is no proof that any person who has applied for financial aid to a post-secondary institution has failed to register under this particular act. We've in the past legislative sessions passed a great deal of legislation dealing with education, particularly, as to the increased costs of education. We currently are considering some tax law changes to help fund those educational measures. Are we to put an additional burden on our educational system? Our educational institutions simply to be able to stand up and be counted — that yes we feel — that it is important to register under this particular Federal Act?

I don't think that it is necessary. There have been no statistics, no proof that this type of bill is necessary, and I ask you to support my motion for the Ought Not to Pass Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator **MATTHEWS:** Mr. President, Members of the Senate, I was on my way out of here with the students from Lawrence High

School when I realized that we were going to debate this issue. I just want to stand up here as one person who has not had the privilege of serving in the defense of this country, as of yet.

We live in a world though, that may require at a later date for us to once again bear arms and defend the rights and freedoms that we enjoy in this country.

I do support this measure, and I just want to briefly mention why. Also, in the other Body I supported this Bill, so it is consistent for me. Some of us, I think, feel as members of this country and the State of Maine that the draft, and registration for the draft are ways of equalizing service to defend this country. There is a problem obviously with women not being asked to defend the freedom of this country, but aside from that, some of us have some strong reservations about an all volunteer army.

I have strong feelings in that regard from a historical point of view. It has been proven in past history of this nation, of other nations of free countries as well, where a volunteer army, an all military force for pay or for whatever reason is not the best way to go, and sometimes you will create a monster that you do not wish to have in a free society.

So I support the draft, and I support draft registration, because I believe that it is important that everyone serve to the defense of this country, regardless of income. The Senator, Senator Pearson raises some very, very good points, but I think that it is important for us to remember why we are asking for draft registration, because I think in this country we want everyone to serve. During the unfortunate war that just passed, unfortunately some rich, wealthy, affluent people did not serve and that was not right, and I do not support any mechanism tax deferment or any other reason to keep anyone from having to defend this country, and that is just not something that we should condone.

There is one question with respect to the problem of this Bill not applying to those of wealth status going to private institutions, and that may be a good one. I would just add a remark that was mentioned to me in the halls of this Statehouse the other day from someone; I don't even remember who it was, who said to me: "why are we worried about those that have acted voluntarily to civilly disobey the laws?" From everything that I have been able to read civil disobedience requires being able to take the penalty.

We have a law which is a Federal Law. I see no reason why the State of Maine can't go on the books of also saying that tax monies and State Aid will not be allowed for someone who breaks a State law and a Federal law. I see nothing wrong with that.

The true art of civil disobedience is having the courage and the fortitude to say, "I am willing to take the penalty".

I am one who had serious, serious reservations and concerns about the last Vietnam War conflict, and who would have been out there protesting against that war, because it was unjust in my estimation.

I do not, however, feel that the defense of this country is anything that we want to sacrifice and lay down and not be prepared to fight for, and all of us should be prepared to fight. There was a war not too, too long ago, that I believe was the defense of liberty—the Second World War—when I don't think anyone in this Chamber would question the merits of going to the aid of our allies.

I happen to believe very, very strongly in registration to prepare one for that unfortunate time, when we have to fight, and will support this Bill very, very strongly.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate, as I said before, I'm the

Chairman of the Selective Service Board for Penobscot County. I volunteered for that job and I accepted it, and it has been interesting. It hasn't taken a lot of time, but nevertheless it's been interesting. I don't think a person who is in that type of a position, that civil disobedience or disrespect for the law is what we should be talking about in here at all. The Selective Service Act of this Country took care of that when it was Enacted. It put a fine on those people who didn't sign up, and it could impose a prison sentence of five years for those who refused.

As far as I'm concerned that is not a question, because it's been taken care of. We do not have to deal with that in the State; it has been dealt with. The thing that bothers me is that this Bill will cost money to the institutions of higher learning in this State, they are lacking money as it is, and it is totally unnecessary. That's one of the reasons it bothers me; I can see the University of Maine at Fort Kent, the University of Maine at Presque Isle, Machias, Orono, Farmington, Augusta. All those people having to hire somebody or share somebody, as the case may be, at Presque Isle and Fort Kent to screen all these applications — at least a part-time position. It costs money and it doesn't need to be done. It simply does not need to be done because it's working. They use to say when I first was in the Maine Legislature, there use to be a common expression, "if it's working why try to fix it?"

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator **NAJARIAN:** Mr. President and Members of the Senate, I'll be very brief because most of the major points have been covered.

I don't have the credentials that the good Senator from Aroostook, Senator Carpenter has, but I do want to say I have three brothers who fought in World War II, I gathered milk weed pods to make parachutes during that period, and I have two sons who are registered for the draft, but even had they not registered for the Draft, they would not have come under this law, because, although I don't consider my family a well-to-do-family, they received no Federal or State Aid.

I don't know. I can't figure out what the supporters of this amendment hope to accomplish. If it's to encourage them to register, this won't do it, because the university or the colleges aren't required to turn the names over to the Selective Service Board, and they just are denied Title Federal funds, or if this passed they'd be denied State funds which they could go out and borrow the money at current interest rate — they could still go to the university or go to their college. If it is punishment that you're trying to inflict (supposing we had a student in Maine that hadn't registered) if it is punishment you are trying to inflict on them, that's not going to work either; because of the ten thousand dollar fine and five years imprisonment isn't going to encourage them to enroll, certainly the two-hundred dollar grant that we give to students for the incentive program, if they go to the University, or three-hundred dollars we give them, if they go to private colleges will not encourage them to register.

It seems to me that a student would be more apt to want to fight for his country and defend it, if his country helped him to get an education—then why deny him the opportunity to get an education.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Stover.

Senator **STOVER:** Thank you, Mr. President. I don't want to belabor the point and say that all the main issues have been made, but I have my boys coming along in my family are grandchildren. I have five grandchildren — four of them have already registered and the other one is fifteen years old. I'm sure he will when the time comes.

It seems to me what we're talking about discrimination — is discriminating against these people who do register, because they've stated by registering that they are ready to do their part.

Mr. President, when the vote is taken I ask for a Roll Call.

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

Senator **BROWN:** Thank you, Mr. President. Men and Women of the Senate, there have been several arguments made here this morning. I'd just like to run through those briefly:

One, this is penalizing the poor. The Blaine House Scholars Program is not "needs based." That's for anybody that has the grades and the intelligence and so forth to apply for it — it's not "needs based." This is not a loyalty oath. It has people alluding to the fact that if someone didn't go ahead and register they in fact had not signed a loyalty oath. We're not asking for that, we're simply asking for a check-off on a form for a person that's registered or not. It doesn't cost any money to revise some forms. What are we talking about? We're not having a detail investigation of each applicant that applies for funds. It's a check-off on a form. It's a men's issue.

I would support it if some of the national leaders proposed that we ought to have two-years of volunteer service for everybody, but that's not the law right now. The law says that we're suppose to register. That's what the law says and it's no problem — don't fix something that's not broken. We're not talking about a problem — we're talking about prioritizing some resources that are very limited — nothing more.

We haven't had a draft for ten years. This is registration — this is registration for Selective Service. It's not punishment; it's not intended to go out and get registrants because the Federal law is working quite well, but it's to prioritize some State resources that you and I have to make decisions on that affect — and I could go ahead and make a whole big list of things we have to spend money on that bothers you and I because we don't have enough. We are simply prioritizing resources to those who obey the law. Thank you, Mr. President.

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

Senator **TRAFTON:** Thank you, Mr. President. I can't resist to respond to Senator Brown, the good Senator from Washington in his comments about prioritizing resources.

I think this issue could be described as prioritizing resources in the following way:

Do we want to spend our money to have some clerks and some inspectors or financial assistants applications to check to see if applicants have, in fact, complied to the Selective Service Registration Act? Or do we want to spend that money toward educational programs and have a much better, much improved educational system in the State of Maine? My choice is clearly the latter. My priority is to improve our educational system, not to fund additional State positions in our institutions. Thank you.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate, I just want to see if I'm straight. In looking at the Bill, the Bill says, "the officials who administer those financial assistance programs may require an applicant to submit written proof of registration prior to the award of a grant, loan or scholarship. I think it involves a little more than simply a checkoff.

If, in fact, it is only a checkoff, I would ask if a person who is willing to risk five years in jail and ten thousand dollar fine in absolute defiance to the Federal law, if there's not at least a remote possibility that they might lie on that checkoff? And if the scholarship grant or financial aid in question, if it doesn't make a dif-

ference for the person going to school, if it probably isn't going to make a difference anyway, chances are they'll go ahead and check "no", I haven't registered for the draft. This is not going to keep them out of school. Their name is not going to be turned over to the Federal Government apparently. If it is going to be enough to keep them out of school, I think there's a very good chance they're going to checkoff "yes" they've registered. But the Bill says that they may request written proof of registration. I assume that's a Draft Card which I don't have, and I don't think I ever did have; although, I must have signed up for the draft back in the 1960's.

What if you lose your Draft Card, and if you're like I am, any time I've ever thought about going to school, I'm always a day late and a dollar short getting my paper work in. You may, in fact, prevent people from going to school even though, in fact, they're registered for the Selective Service.

I think there are a lot of problems with the Bill. I seriously would ask that it be defeated.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator **NAJARIAN:** Mr. President and Members of the Senate, I just want to correct an impression that the good Senator from Aroostook, Senator Carpenter may have created, that we have a 100% compliance because they're lying — these students are lying. They are required to present a letter from their Selective Service Board that they have registered.

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 of the Senator from Androscoggin, Senator **TRAFTON** to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report of the Committee.

A yes vote will be in favor of the motion of the Senator from Androscoggin, Senator **TRAFTON** to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report of the Committee.

A No vote will be opposed.

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

ROLL CALL

YEAS:— Senators, Andrews, Baldacci, Bustin, Carpenter, Chalmer, Clark, Danton, Dow, Kany, McBreairty, Najarian, Pearson, Trafton, Usher, Violette, The President — Charles P. Pray.

NAYS:— Senators, Berube, Black, Brown, Diamond, Dutremble, Emerson, Erwin, Gill, Hichens, Matthews, Maybury, Perkins, Sewall, Shute, Stover, Tuttle, Twitchell, Webster.

ABSENT:—Senator, GAUVREAU.

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **TRAFTON** of Androscoggin to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report **FAILED**.

The Majority **OUGHT TO PASS** Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

On motion by Senator **VIOLETTE** of Aroostook the Senate **RECONSIDERED** its action of earlier in today's session whereby it referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**

Bill "An Act Concerning the Licensing of Small Maine Breweries" (S.P. 343) (L.D. 934)

On further motion by same Senator referred

to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

Pursuant to Senate Rule 1, the President appointed Senator **CARPENTER** of Aroostook to perform the duties of the Chair in the absence of the presiding officer.

On motion by Senator **PEARSON** of Penobscot

ADJOURNED until 10 o'clock tomorrow morning.