

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

HOUSE

Thursday, April 7, 1983

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Robert Roche of St. Thomas Aquinas Catholic Church, Dover-Foxcroft.

The journal of yesterday was read and approved.

**Papers from the Senate
Reports of Committees
Unanimous Ought Not to Pass**

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Require Oil Dealers to Adjust Contract Prices for Budget Customers when Cash Retail Prices are Reduced" (S. P. 269) (L. D. 822)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Concerning Workers' Compensation for Officers of Corporations" (S. P. 332) (L. D. 977)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Ought to Pass in New Draft

Report of the Committee on Audit and Program Review on Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law" (S. P. 76) (L. D. 187) reporting "Ought to Pass" in New Draft (Emergency) (S. P. 459) (L. D. 1390).

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the New Draft read once and assigned for second reading tomorrow.

Non-Concurrent Matter

Bill "An Act Relating to Business, Travel or Recreation on Sunday" (S. P. 29) (L. D. 84) which was passed to be engrossed as amended by Committee Amendment "A" (S-38) and House Amendment "C" (H-108) in the House on March 31, 1983.

Came from the Senate with that Body having insisted on its previous action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-38) in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, I move that we recede and concur and request the yeas and nays.

The SPEAKER: The gentleman from Portland, Mr. Brannigan, moves that the House recede and concur and requests a roll call vote.

The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This House, last week, put an amendment on this bill that seemed to be quite reasonable to the majority members in this body. We sent it down to the other end of the hall, and it is obvious by their actions that they did not agree with the House on that particular amendment.

Some of us who had opposed this particular document supported the amendment for the simple reason that it was fair and just for those who were going to be asked to work on Sunday to get an additional amount of money, and no risk if they should not want to work.

The other body has taken a position which is now dictating back to this body, and I would urge you to reject the good gentleman's motion

so that one of us could make a motion to insist and see if we could not get a committee of conference with the other end of the hall in trying to reach some reasonable agreement.

The amendment that was put on by a House member last week was not unreasonable by any stretch of the imagination, but those who want this bill, they don't want it in complete fairness, and this House acted with good reason last week. I suggest to this House this morning that we not be rejected by the other body on a reasonable and sound amendment, so I urge the House to not support Mr. Brannigan's motion at the moment, and then a more appropriate motion to insist and ask for a committee of conference could be made and we will find out just what is true and blue and sincere in regards to the other branch of this government.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I would hate to jeopardize this bill for four days work, and I would hope that you would support the motion that is on the floor.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I speak three times on a bill, because usually when I get knocked down a couple of times I just let it go by.

I hope you will go against the motion made by Mr. Brannigan so that we can make a motion to insist and ask for a committee of conference.

I went over some of the problems I had with this particular bill the other day, and I guess a few of you must have thought that I had a legitimate gripe because you went along with the amendment. I am still not too thrilled with the bill, but at least with the amendment, I think that these people that are working in these places have a half decent chance.

Of course, being a political realist, I realize that there are not too many people involved and they don't have too much clout. If you were trying to do something like this to the paper workers in the State of Maine, it would be a whole different story because there is enough of those, no matter who you are, you will listen to their voice. Unfortunately, the people that work in large chain stores are few in numbers and they don't have a lot of money to buy influence down here, but I am the kind of fellow that likes to look out for these guys that don't have the money to buy the influence and don't have a loud voice; I try to be the loud voice for them.

The argument was made that these people, when they went to work, they were hired for a job and working on Sunday is part of the job, but that is not the case here, ladies and gentlemen. What we have here is a certain size group of stores that have been prohibited from opening on Sunday coming in and asking this Legislature to change the law so that they can open. All the employees that they have up to now were hired with the understanding that they would not be working on Sundays because they couldn't open on Sundays before. If you are talking about a little Brooks store or a small LaVerdiere's store or something like that, the employees are hired with the understanding that they are going to work on Sunday, and that is a condition when they take the job and I have no problem with that. But what

these big stores are doing now is asking us to change the law to allow them to be open. I think we should do something to make sure that the employees involved will be taken care of.

I still have two problems with this, and as I said before, after six and a half years of working for one of these outfits, I know how they operate and I don't like to see people taken advantage of, especially the people that can be taken advantage of the easiest and can afford it the least.

I would like to be given the opportunity for three members of this body to get together with three members of the other body and see if we can't work something out. So I hope you will go against the motion to recede and concur so maybe the good gentleman from Bangor, Mr. Kelleher, can make a motion that we insist and ask for a committee of conference and see if we can't work something out for the employees.

The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to support the motion of the good gentleman from Portland, Representative Brannigan. I don't want to try to second guess the reason why the other body took the position they took, but from my viewpoint, with the amendment that was passed here in the House and attached to the bill, we are creating two classes of workers for four days, 20 hours, during the year by saying that those workers who are employed by chains of more than 5,000 square feet of selling space, that you are going to receive for your employment on Sundays time and a half, and we are saying to the current workers who are now employed Sundays in units that have less than 5,000 square feet of selling space, tough luck.

Also, it was never brought up in the bill, the original discussions on the bill here in the House, that from Thanksgiving time, or prior to Thanksgiving time, until the holiday season has ended, there is additional help that is employed in these larger units that at that time of year sell a tremendous amount of product.

I would assume that most of these people that are hired, additional help that are employed during this time of year, would be willing to work anyway, and I am going to say, and I come from a background of working for a large chain in this state, I worked 7 days a week sometimes as a store manager and I had people that worked for me that worked 6 days a week, I have had people that have worked for me on Sundays, and I will talk as a store manager — I never forced anyone, and I am sure many of these store managers in this state that work in the types of units that we are discussing today aren't going to force anybody to work Sundays, because if they don't want to work Sundays, ladies and gentlemen, they don't have to. If they are attempted to be coerced into working Sundays, they sure as heck have a good case for going to the Maine Labor Relations Board.

I say that all this ballyhoo in regards to the concern of the working person working on Sundays is poppycock. I think it is a clear attempt to scuttle this piece of legislation. I think that Maine needs it — these are Maine dollars, these are Maine jobs and Maine taxes, and we will sit here and we will discuss this and we will talk about increasing taxes and trying to increase employment, and when we have an opportunity to do that, we want to knock it out of the air. Well I submit to you that I think this is a nice piece of legislation, I think it means a lot to Maine business, to Maine people, and therefore I urge everyone in this body to support the motion that Mr. Brannigan made.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Kane.

Mr. KANE: Mr. Speaker, I would like to address a question through the Chair to the gen-

tleman from Harrison, Mr. Jackson. I would like to ask him, on what basis would these people that he just talked about have a right to go before the Labor Relations Board?

The SPEAKER: The gentleman from South Portland, Mr. Kane, has posed a question through the Chair to the gentleman from Harrison, Mr. Jackson, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. JACKSON: Mr. Speaker, I think just the threat would prohibit any store manager from making anybody work on a Sunday if they chose not to. I would assume that if they had a valid excuse of religion or a family, whatever the case may be, and they were refused or fired, I think that would certainly be grounds to go to the Maine Labor Relations Board.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment that was put on this bill was put on by a member of my party. It is not out of fashion for Democrats in this House and the other body and even in the national government to be the spokesman for the working men and women of this country and also of this state, and I ask all of you, but I particularly ask the Democrats in this House this morning, where there are 92 of us, one of the reasons that this party of ours is in the majority is because it has been a party that has worked for people, it is a party that has been the advanced leaders for every social issue in this country, as well as in this state, and because we have got such a large majority, are we going to begin to feel a little comfortable, a little smug, and say yes, the working people that might be working on Sundays, they don't need the time and a half, they shouldn't get that kind of security, that is absolute nonsense, that is why I am a Democrat, that is why I belong to the Democratic Party, because it is a party that has been working for people, not against them but for them.

This House supported a reasonable amendment last week and it shouldn't divorce itself from it today, and the arguments here that this is a possible way of killing the bill, that is nonsense. I want social justice, just like everybody else, and I urge you not to support the motion of the gentleman from Portland, Mr. Brannigan, this morning and then we will get a motion to insist and maybe bring some sensible advising position to the other body.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: Not only does the good gentleman from Bangor not support my motion this morning; remember, he moved indefinite postponement of this whole bill.

I would say that on the Sunday sales issue for this year, this is it. This vote to recede and concur will make a decision on whether we will have this amended version of an unusual law, a law that has been on the books for 20 years, a law that has had a great deal of inequity in it and still will have. These good gentlemen are right — there are inequities; other gentlemen are right — there will be more inequities if those amendments are passed. But it has been held together by chewing gum and bailing wire for 20 years, and it has been upheld by the courts that some stores could be open and some closed.

As I told you last week, if I had my druthers, there would be no change, but change has come and change is coming, and I believe this strongly, otherwise I would not have been on the majority side of my committee, in favor of four Sundays, unless we give that little safety valve of relieving inequities when they are of the highest magnitude, when the inequities are most unequal, those times of greatest buying, those four Sundays, four or five hours each. Unless we relieve right now those, I believe we hurry on 52 Sundays in this state, and that will be done out of our hands either by the courts

or by citizen initiative, by the big stores putting together very quickly a citizens' initiative petition, and I believe that the majority of the State of Maine would vote for 52 Sundays. I don't want to see that, I think the majority of you do not want to see that, so I ask you to vote on this, because if this motion to recede and concur loses, I guarantee you that a committee of conference or to adhere will kill the bill.

Mr. Kelleher of Bangor was granted permission to speak a third time.

Mr. KELLEHER: Mr. Speaker and Members of the House: I appreciate the good gentleman's counseling of this body, but he knows only so well that if we ever got to the point of a committee of conference and should that conference not agree, then the bill would not be dead at all. If either body could not agree, there still would be opportunities enough within the rules to keep the bill alive, and I am sure that this member, as well as a lot of other members, knows the rules and would know the motions. So if in fact it ever did get to that other motion of a committee of conference, the bill would not be dead. Please do not be misled, and I am sure the gentleman is not trying to fool you, it is just a matter of putting the motion in the proper perspective.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Ketover.

Mrs. KETOVER: Mr. Speaker and Members of the House: I rise because I also want to tell you to support the recede and concur motion.

The Blue Law is run fair now and this applies only to selective businesses, and I urge you not to compound the inequities by creating more inequities.

This body voted for this bill last week, 87-52 for the original bill, and I hope that you will support that again today and vote with us on the original bill.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Handy.

Mr. HANDY: Mr. Speaker, Men and Women of the House: Last week, we struck a blow for the workers of the State of Maine, those people who would be exploited to work on Sunday, they would be coerced. I can tell you stories upon stories about some stores that have those night light sales, they call them, that go on for two and three days. I know of workers who have asked not to be scheduled for them because they would like to spend some time with their families, and then, sure, the manager will give that individual the day off, not only that day off but everyone following. That person would be fired from that position.

What we are creating here is just another excuse for any employer to mandate an employee to work without just recompense. I submit to you, ladies and gentlemen, that I am a Democrat who worked as one of those members of the working class that Mr. Kelleher referred to, as one of those Democrats that Democrats in bodies like this represented, because they knew that those people did not have the loud voice that is heard, such as those in the halls of this building, lobbying hard for a bill that would bring more money into their businesses.

I would ask you to reject the motion before you so that we can insist and have a bill that would seek to strike a compromise between the two positions here. I think that is the way the system should operate, and I would hope that you would support that.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I hate to delay this, but, you know, in the little Town of Cumberland at least half of my constituents are Democrats, and who do you think the people are that are asking of this bill? They are the working class people who have to work, and most of the people in my area who have to work at a low wage are also working on two jobs, Saturday and Sunday, to receive enough money to be in-

dependent. Those are the people that I am supporting today; those are the people who have asked me to get this Sunday bill in so perhaps their wives can do some shopping or they can do some shopping for four days during the Christmas season. That is not too much to ask. I would feel terrible for the people, if this bill goes down the drain, because those are the people, the working class people, that want this bill.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Kane.

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I was surprised — for just a minute there I thought the gentleman from Cumberland was going to say he used to be a Democrat. But a little more seriously with regard to this bill, I think this House has spoken and we have spoken very clearly. This House has said that people should work on Sunday if it is voluntary. That is, we have said that retail employees who generally work evenings and Saturdays would like to spend some time with the families on Sundays, or those people who have some religious objections to working on Sundays, should deserve some consideration from their fellow citizens, from us. I think we said that very clearly last week and also said that in the event that they do work, we think they deserve some special compensation.

I would like to very briefly refer to Mr. Brannigan's two red herrings on this bill. I think it is very unlikely that the courts are going to usurp the power of this legislature and just decide to open up these stores no matter what this legislature does. I don't see any rational basis for that at all, although there are some people who say that if we open it up for four Sundays, the mall owners would have a much better case to go to court to open up for the rest of the year.

As Mr. Kelleher said, if a committee of conference fails on this bill, it does not kill the bill, we will see it again.

One last thing — I think this body has traditionally been the people's body, and the body at the other end of the hall has just traditionally had a different point of view on things. I think the analogy between the House of Lords and the House of Commons is not lost and that is why American government is the way it is.

I just urge this body to stick to the consideration that it gave last week to the people that are going to have to work if this kind of bill passes, and I just hope that we don't decide to take imperious direction from the other body.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. MCHENRY: Mr. Speaker and Members of the House: I just want to say that my constituents, not one has asked for this. As a matter of fact, the Chamber of Commerce in my town has told me to oppose it completely.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of Mr. Brannigan of Portland that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Standish, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, I would like to pair my vote with Representative Lewis of Auburn. If she were here, she would be voting yes and I would be voting no.

ROLL CALL

YEA—Armstrong, Baker, Benoit, Bonney, Bott, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, D.P.; Carroll, G.A.; Connors, Connors, Cooper, Cote, Cox, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gwadosky, Hall, Hickey, Higgins, L.M.; Holloway, Jackson, Joyce, Ketover, Kiesman, Lebowitz, Lehoux, Macomber, Masterman, Masterton, Maybury, McPherson, McSweeney, Melendy, Mitchell, J.; Moholland, Murphy, Nelson, Norton, Paradis, E.J.; Paul, Perkins, Perry, Pouliot, Randall, Reeves, J.W.; Ridley, Roberts, Salsbury, Seavey, Sherburne, Small, Soucy, Sproul, Stevenson, Stover, Swazey, Tammara,

Telow, Tuttle, Vose, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

NAY—Ainsworth, Allen, Anderson, Andrews, Beaulieu, Bell, Bost, Brodeur, Carrier, Carter, Cashman, Chonko, Clark, Crouse, Crowley, Dudley, Erwin, Gauvreau, Handy, Hayden, Hobbins, Ingraham, Jacques, Jalbert, Joseph, Kane, Kelleher, Kelly, Kilcoyne, LaPlante, Livesay, Locke, MacBride, MacEachern, Mahany, Manning, Martin, A.C.; Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; McCollister, McGowan, McHenry, Michael, Michaud, Mitchell, E.H.; Murray, Nadeau, Paradis, P.E.; Parent, Pines, Racine, Reeves, P.; Richard, Roderick, Rolde, Rotondi, Scarpino, Smith, C.B.; Smith, C.W.; Soule, Stevens, Strout, Theriault, Walker, The Speaker.

ABSENT—Brown, K.L.; Connolly, Curtis, Diamond, Higgins, H.C.; Thompson.

PAIRED—Greenlaw-Lewis.

Yes, 74; No, 67; Absent, 6; Paired, 2; Vacant, 2.

The SPEAKER: Seventy-four having voted in the affirmative and sixty-seven in the negative, with six being absent, two paired and two vacant, the motion does prevail.

House Reports of Committees Unanimous Leave to Withdraw

Representative Ridley from the Committee on Energy and Natural Resources on Bill "An Act to Create an Emergency Petroleum Reserve for the State" (H. P. 821) (L. D. 1061) reporting "Leave to Withdraw"

Representative Mitchell from the Committee on Marine Resources on Bill "An Act to Change the Season during which Scallops may be Taken" (H. P. 906) (L. D. 1185) reporting "Leave to Withdraw"

Representative Melendy from the Committee on Marine Resources on Bill "An Act to Place a Limit on the Number of Lobster Traps a Person may use to take Lobster" (H. P. 906) (L. D. 1186) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass in New Draft

Representative Beaulieu from the Committee on Labor on Bill "An Act to Protect Unemployed Workers from Loss of Unemployment Benefits without the Opportunity for a Fair Hearing" (H. P. 411) (L. D. 494) reporting "Ought to Pass" in New Draft (H. P. 1089) (L. D. 1416)

Report was read and accepted, the New Draft read once and assigned for second reading tomorrow.

Ought to Pass in New Draft/New Title

Representative Thompson from the Committee on Education on Bill "An Act Concerning the Hiring of 'Clerks-of-the-works' for School Construction Projects" (H. P. 727) (L. D. 936) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning the Hiring of 'Clerk-of-the-works' for the Inspection of Public Improvements" (H. P. 1090) (L. D. 1417)

Report was read and accepted, the New Draft read once and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act Concerning Registration of Deer in Unorganized Territories" (H. P. 265) (L. D. 325) reporting "Ought to Pass" in New Draft (H. P. 1074) (L. D. 1406)

Report was signed by the following members:

Senators:

REDMOND of Somerset
DOW of Kennebec
USHER of Cumberland

— of the Senate.

Representatives:

CONNERS of Franklin

JACQUES of Waterville
GREENLAW of Standish
ERWIN of Rumford
MacEACHERN of Lincoln
CLARK of Millinocket
SMITH of Island Falls
PAUL of Sanford
RODERICK of Oxford

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following member: Representative:

KELLY of Camden

— of the House.

Reports were read.

On motion of Mr. MacEachern of Lincoln, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading tomorrow.

Divided Report Tabled and Assigned

Majority Report of the Committee on Judiciary on Bill "An Act Relating to Justices and Judges of the Supreme Judicial, Superior and District Courts" (Emergency) (H. P. 73) (L. D. 78) reporting "Ought to Pass" in New Draft (H. P. 1088) (L. D. 1415)

Report was signed by the following members:

Senators:

TRAFTON of Androscoggin
VIOLETTE of Aroostook
COLLINS of Knox

— of the Senate.

Representatives:

HOBBS of Saco
JOYCE of Portland
REEVES of Newport
LIVESAY of Brunswick
FOSTER of Ellsworth
DRINKWATER of Belfast
HAYDEN of Durham
BENOIT of South Portland
SOULE of Westbrook

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following member: Representative:

CARRIER of Westbrook

— of the House.

Reports were read.

Mr. Hobbins of Saco moved that the Majority "Ought to Pass" Report be accepted.

On motion of the same gentleman, tabled pending his motion to accept the Majority Report and tomorrow assigned.

Consent Calendar First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H. P. 892) (L. D. 1157) Bill "An Act to Promote Early Permanency for Children Subject to a Protection Order" — Committee on Judiciary reporting "Ought to Pass"

(H. P. 891) (L. D. 1156) Bill "An Act to Improve the Child and Family Services and Child Protection Act" — Committee on Judiciary reporting "Ought to Pass"

(H. P. 889) (L. D. 1154) Bill "An Act to Establish Clearer Guidelines for Guardians Ad Litem Appointed Under the Child and Family Services and Child Protection Act" — Committee on Judiciary reporting "Ought to Pass"

(H. P. 688) (L. D. 868) Bill "An Act Regarding the Motor Vehicle Offenses of Eluding a Police Officer and Passing a Roadblock" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-121)

(H. P. 814) (L. D. 1054) Bill "An Act to Amend the Waiting Period After Promulgation of a Rule by the Bureau of Banking" Committee on Business Legislation reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of April 8 under the listing of Second Day.

Consent Calendar Second Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the Second Day:

(H. P. 571) (L. D. 719) Bill "An Act Relating to Mobile Home Parks" (C. "A" H-115)

(H. P. 711) (L. D. 902) Bill "An Act to Define Cider" (C. "A" H-116)

(S. P. 145) (L. D. 436) Bill "An Act to Eliminate the Requirement that Supreme Judicial Court Briefs be Bound"

(H. P. 260) (L. D. 320) Bill "An Act Relating to the Capitalization and Board of Directors of the Maine Fidelity Life Insurance Company" (C. "A" H-118)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was passed to be engrossed in concurrence and the House Papers were passed to be engrossed as amended and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act to Require Hospitals to Provide Itemized Bills Upon Request" (S. P. 460) (L. D. 1391)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mrs. Nelson of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-120) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

Second Reader Later Today Assigned

Bill "An Act to Provide for the Negotiation of Union Security Provisions" (S. P. 267) (L. D. 812)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Mount Desert, Mr. Zirnkilton.

Mr. ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I am offering an amendment to L.D. 812 which, unfortunately, is not before this body at this time, so I would ask that this matter be tabled later in today's session.

Whereupon, on motion of Mrs. Beaulieu of Portland, tabled pending passage to be engrossed and later today assigned.

Second Reader Tabled Unassigned

Bill "An Act to Clarify the Negotiability of Pay Rates Under the State Employees Labor Relations Act" (S. P. 170) (L. D. 525)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending passage to be engrossed.

Passed to Be Engrossed

Bill "An Act to Protect Underwater Electric Cables and to Increase the Penalties for Violations" (H. P. 1073) (L. D. 1405)

Bill "An Act to Equitably Share the Cost of Police Training" (H. P. 1075) (L. D. 1407)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

Bill "An Act Concerning the Financial Responsibility of the County for Medical Expenses of Prisoners" (H. P. 671) (L. D. 854)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. McHenry of Madawaska offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-119) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

RESOLVE, to Authorize a Pole and Transmission Line Easement on Chokecherry Island and Mattanawcook Island and a Portion of the Penobscot River in the County of Penobscot (H. P. 562) (L. D. 712)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

Second Reader Later Today Assigned

Bill "An Act to Amend the Maine Consumer Credit Code" (S. P. 219) (L. D. 656) (H. "A" H-114 to C. "A" S-34)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Ms. Benoit of South Portland moved that the House reconsider its action whereby Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, I hope that you will not indefinitely postpone and I would ask for a roll call.

On motion of Mr. Diamond of Bangor, tabled pending the motion of Ms. Benoit of South Portland to reconsider whereby Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and later today assigned.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

An Act to Establish Mandatory Minimum Fines for Unauthorized Taking of Agricultural or Forestry Products (H. P. 1017) (L. D. 1314)

Tabled—April 6, 1983 by Representative Michael of Auburn.

Pending—Passage to be Enacted.

On motion of Mr. Mahany of Easton, the Bill was recommitted to the Committee on Agriculture in non-concurrence and sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

An Act to Prohibit Hazing at Post-secondary Institutions (H. P. 1023) (L. D. 1324)

Tabled—April 6, 1983 by Representative Gwadosky of Fairfield.

Pending—Passage to be Enacted.

On motion of Mr. Gwadosky of Fairfield, tabled pending passage to be enacted and later today assigned.

The Chair laid before the House the third tabled and today assigned matter:

Bill "An Act to Expand the Tourism Promotion Program" (Emergency) (S. P. 451) (L. D. 1372)

Tabled—April 6, 1983 by Representative Gwadosky of Fairfield.

Pending—Reference in concurrence.

On motion of Mr. Gwadosky of Fairfield, tabled pending reference in concurrence and tomorrow assigned.

The Chair laid before the House the fourth tabled and today assigned matter:

Bill "An Act to Provide for State Service Payments to Municipalities in which State-owned Buildings are Located" (H. P. 1085)

Tabled—April 6, 1983 by Representative Carter of Winslow.

Pending—Reference.

On motion of Mr. Carter of Winslow, tabled pending reference and tomorrow assigned.

At this point, the House recessed for Welcome Back Day activities.

After Recess

11:30 A.M.

The House was called to order by the Speaker.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Maine Consumer Credit Code" (S. P. 219) (L. D. 656) (H. "A" H-114 to C. "A" S-34) which was tabled and later today assigned pending the motion of Ms. Benoit of South Portland to reconsider whereby Committee Amendment "A" as amended by House Amendment "A" thereto was adopted. (A roll call requested)

The SPEAKER: For the Chair to order a roll call, must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Ms. Benoit. Ms. BENOIT: Mr. Speaker, Men and Women of the House: If I can regain your attention after all the fine activities, I would like to speak briefly to my motion for reconsideration.

Yesterday, I voted for the Committee Amendment; however, I have had an opportunity to further discuss the substance of the amendment and I now believe that I should not have supported that Committee Amendment.

The Maine Consumer Credit Law has worked well and with few complaints. It is my opinion that Committee Amendment "A" will weaken the protection now available to the Maine consumers. Presently, a creditor, the person who distributes the credit card to your company, the department store, the gasoline station, the bank, whatever, is required to give you 90 days notice if there is to be a change of credit. Within that 90-day period, you, the consumer, have 60 days to notify the creditor that you, the consumer, do not wish any existing balance due to be affected by the new terms. If the creditor does not receive any such notification from you, the consumer, during that 60-day period, then the new terms do apply. However, if you leave or accept Committee Amendment "A" which is now on the bill, it would reduce that notification period to you, the consumer, from 90 days to 30 days. It also reduces the consumer's notification period, your notification to the creditor, from 30 days to 23 days.

I think the point that Representative Diamond was trying to make yesterday, and which I must say I didn't quite grasp, was that with only 23 days, many people do pay their bills once a month, you may take your bills, set them aside and not look at what is inside that envelope. The 23 days may even have passed before you get to paying that bill. I think that that is too short a time for the consumer to have for a notification period and also too short a time for the consumer to be able to inform the creditor that he or she does not wish the remaining balance to fall under the new terms.

I would hope you would vote to reconsider and I believe that Representative Diamond will offer an amendment to increase it to 60 days.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, a point of order?

The SPEAKER: The gentleman may state his point of order.

Mr. GWADOSKY: Mr. Speaker, Members of the House: I respectfully would suggest that

the gentlelady is attempting to debate an amendment that is not before us.

The SPEAKER: The Chair would advise the gentleman that she did not do so.

The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The committee worked a long time on this bill. There were a lot of compromises and yet I think we have modernized it. One thing you should remember, what some people want to do is put a 60-day notice period on this bill. What do you do if you get a notice that is 60 days old? Well, you say you will put it off until next month, and I will guarantee that if you do that, you will forget all about it.

Thirty days is a pretty good period. Remember another thing about this bill—we have changed it so that the consumer has just 7 days to make up his mind, that is a big change from the present bill, he has to make up his mind by 30 days.

I hope you will not vote to reconsider.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker and Members of the House: I regret prolonging the debate on this issue; I also regret, as I mentioned yesterday, disagreeing with my good friends on the Committee on Business Legislation. They are a hard working committee and they have been inundated with work this session and they have worked so diligently they deserve a lot of credit.

I hope this isn't seen as an effort on the part of myself or this corner, perhaps, trying to stick, in my case, a big schnozzle into a piece of legislation that the committee has been working on so hard. This particular piece of legislation is a concern of mine and I have a philosophical disagreement with it and a philosophical disagreement with those members of the committee who support the committee amendment that was adopted yesterday, and that is why I am hoping that we will reconsider our action.

There is a great amount of confusion, I believe, over exactly what the state law is and what is affected by passage or adoption of this amendment that we adopted yesterday, and I hope we can clarify it before we go on to voting on reconsideration.

As was mentioned by Representative Benoit and by others in yesterday's debate, state law now says that if a creditor, a business or whatever wants to change the terms of an agreement on an open-ended line of credit, a charge account, or perhaps a credit card with a bank, they have to give 90 days' notice to the consumer that they are going to change those terms of agreement, 90 days prior to the effective date. Within those 90 days, contrary to what my good friend from Brooksville stated, there are 3 notifications required under present Maine law, one each month in the 3 billing periods. What this amendment does is reduce that window period that is available for people to adjust or to make adjustments to deal with the changes in terms if they so desire.

As Representative Benoit mentioned, right now there is what I call a window period of 60 days in the existing law. There is a 90-day notice to the consumer that the terms are going to be changed. They have to give at least 30 days' notice to the creditor that they don't want their outstanding balance to be affected by that change; therefore, we come up with that 60-day period, two billings within that 60 days.

What the amendment does is reduce that window period to 23 days. The amendment says that there is one notice 30 days prior to the effective date and the consumer, if they don't want that outstanding balance, whether it be \$100 or \$1,500, if they want to avoid having that affected by the change in terms, what they have to do is notify the creditor within that new 23-day period that is being proposed.

I think that that is too short a period.

In my family, my wife and I pay the bills at the end of the month when we know how much money we have and we know what the bills are that we have to pay out.

Under this amendment, your bill comes in, as it does every month, and what you do if you are like us, we put them in a little folder by the toaster in the kitchen and when it comes time to do the bills, we do them all at once. If, under this bill, that 23-day window where you can change the terms if you are notified that you must do so, in my particular case, I think that I would for the most part find that I can't do it, it is too late, my options are gone, and if it is a credit card with a local department store and I have gone out and bought some clothes or something, it can be a substantial amount.

Now to emphasize, to give you a clear example of just what would happen if this is adopted by this body, I will have to refer to something that happened about a year and a half ago. A gas company that would not be covered by this particular bill but it is the best example I can think of off the top of my head, a gas company decided they were going to change the terms of agreement—what they did was change from a minimum payment of \$25 a month to 25 percent of the outstanding balance. If you are a salesman or you do business and you rack up a sizable gas bill every month or have one, say a thousand dollar gas bill, which under many credit cards is permissible, especially in dealings with gas company credit cards, your minimum payment for a month will go from \$25 to \$250 and you have a month to adjust to that. If you don't notify them within that 23-day window period, again because you have set the bill aside with the rest of them, you are stuck. That is a serious problem and I think a lot of families in this state have faced that.

What about the retired people who are having the same problem? They live on fixed incomes and they, too, would be affected by this and they pay their bills in the same way as most of us do.

What I am trying to say is that I think this is a terrible amendment, I really think it is a step backwards for the consumer and I ask that you reconsider our action so we can go ahead and another proposal could be made that would better deal with the problem.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Murray.

Mr. MURRAY: Mr. Speaker, Men and Women of the House: I rise today to oppose the pending motion to reconsider.

Let me first reaffirm the Business Legislation Committee's firm and longstanding commitment to consumer protection. We are often presented with bills dealing with the Consumer Code or the Bureau of Consumer Credit Protection. Our committee has always maintained the consumer's interest as primary in dealing with these matters.

The bill which we are considering today is what remains of a much larger bill which dealt with revisions to the Maine Consumer Credit laws. The original bill sought to conform 13 different sections of our consumer laws to similar federal consumer laws. After a great deal of deliberation, the committee decided that 12 of the 13 suggested changes were not worthy of consideration and opted to retain our present consumer code as written. The final suggested change sought to reduce the notification period for changes within open-ended credit accounts to 15 days, which is what the federal consumer law allows for now. After a great deal of thoughtful consideration, the committee agreed to what you have before you, which is a required 30-day notification period.

Allow me to point out some reasons why I believe it is important that we adhere to yesterday's vote and support this 30-day notification period. In the first place, it is important to remember that every financial institution in the

state must be either state or federally chartered. When a bank is state chartered, it comes under the direct supervision of the Bureau of Banking and must therefore comply with all state banking regulations and state consumer protection laws. Federally chartered banks do not have to meet these same state regulations but rather comply with the federal laws which tend to be much more lenient. I do not mean to imply that state chartered banks would immediately seek revocation of their state charter and apply for a federal charter if we fail to accept this 30-day notification change. However, rejecting this change, coupled with some of the other apparent advantages of a federal charter, makes the alternative of a federal charter all that much more attractive.

Let me emphasize here that any movement toward an increase in the number of federally chartered banks as opposed to the state chartered banks would be a far greater threat to our consumer protection efforts than the proposed 30-day notification change.

Secondly, this 30-day notification period was agreed to by the Superintendent of the Bureau of Consumer Credit Protection, Ms. Barbara Alexander, who was in attendance at both the hearing and the work session when this bill was discussed.

Third, with regard to those open ended credit accounts which do not involve banking institutions, there are still other protections in place. For example, there is an interest rate ceiling of 18 percent for this type of account which is already being charged by every creditor offering this type of account; thus, there is no room for further increase in rates with regards to this type of non-bank accounts.

Finally, I think it is important to reiterate what I mentioned earlier—the federal consumer regulations allow for a 15-day notification period. What we are advocating is a notification period which is still twice that of the federal regulation.

For all these reasons, I would urge you to support the unanimous committee recommendation, maintain the proper balance that has been struck between the regulated and the regulators and oppose the pending motion to reconsider.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Racine.

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not support the motion to reconsider and the reason that I am asking you not to support the motion to reconsider is that I personally feel that we do not need to adopt the changes that will be forthcoming.

As you heard, the Superintendent, Barbara Alexander, is in agreement that the changes reflect today's current status and that the 30 days is sufficient notification by which an individual that has an open-end credit is notified of an impending change for which he can make up his mind. That is all it does—30 days is sufficient notification.

I would like to pose a question through the Chair to the gentleman from Bangor since he indicated that this might be happening on numerous occasions. Would the gentleman kindly give us some examples as to when this mechanism was triggered in the past and when he feels that it will be triggered again in the event of changes and what type of changes might happen?

The SPEAKER: The gentleman from Biddeford, Mr. Racine, has posed a question through the Chair to the gentleman from Bangor, Mr. Diamond, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. DIAMOND: Mr. Speaker, Members of the House: In response to the gentleman's question, all he needs to do to answer his question is to look at the Statement of Fact on the amendment that I am opposing. It says that these changes are taking place very frequently and that is why the amendment is here in the

first place, that because of the volatility of the consumer credit and the terms that have been set up, there are some changes there to address that problem or that concern, and that is why I oppose it, for those same reasons. I think that this is something that is happening very frequently and is expected to happen because of the fluctuation not only in interest rates but in the terms that are involved as well.

The previous speaker mentioned that we are talking about interest rates. It does involve interest rates right now, we are talking about interest rates that are at the ceiling for the most part, 18 percent, but it involves much more than interest rates. The arrangements you make with your creditor as far as the terms of payment, whether or not you pay monthly, quarterly, whatever, the minimum payment, whether it is a percentage or a dollar figure, all kinds of things are involved more than interest rates.

In addition, many other institutions besides banks are involved as well. To imply that this is something that is addressing the concerns of the bank, it is true that this proposal came about because of the concerns of the banking industry who wanted to have conformity between the federal regulations that federally chartered banks follow and conformity with the state law. But it goes beyond that, it goes to all the stores that have charge accounts or offer charge accounts to Maine people.

So to deal with this particular amendment and justify it solely on the basis that it involves banks or a very limited number of people is an erroneous argument; it cannot be used, I think, in fairly discussing this amendment.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening to the debate and, quite frankly, nobody has convinced me that there is any change at all necessary. You may be talking about banks but I am talking about Sears & Roebuck, Montgomery Ward, other stores. I kind of like the idea that I have 90 days to make up my mind on a notice to find out when they are going to change the rules of the game from when I first started in. I like the idea of having 30 days in which to make a decision on my own and when I talked this bill over outside in the hall with several individuals, I had made up my mind I was going to move indefinite postponement of the bill and all its accompanying papers but I don't intend to do so. Another amendment, I understand, is forthcoming; therefore, I hope that this body would support the motion to reconsider.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from South Portland, Ms. Benoit, that the House reconsider its action whereby Committee Amendment "A" as amended by House Amendment "A" thereto was adopted. Those in favor will vote yes; those oppose will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Brodeur, Carroll, D.P.; Carroll, G.A.; Carter, Cox, Crouse, Daggett, Dexter, Diamond, Dillenback, Erwin, Gauvreau, Hall, Handy, Hobbins, Jacques, Joseph, Kelly, Ketter, Kiesman, LaPlante, Locke, Mahany, Manning, Matthews, Z.E.; McCollister, McHenry, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Nadeau, Nelson, Paradis, P.E.; Perry, Reeves, P.; Richard, Ridley, Roberts, Rolde, Rondoni, Smith, C.B.; Smith, C.W.; Soucy, Soule, Stevenson, Tammaro, Vose.

NAY—Anderson, Armstrong, Bell, Bonney, Bost, Bott, Brannigan, Brown, D.N.; Callahan, Carrier, Clark, Conary, Connors, Cooper, Cote, Crowley, Curtis, Davis, Day, Drinkwater, Dudley, Foster, Greenlaw, Gwadosky, Hayden, Hickey, Higgins, L.M.; Holloway, Ingraham, Jalbert, Kelleher, Kilcoyne, Lebowitz, Leloux, Lisnik, Livesay, MacBride, MacEachern, Macomber, Martin, A.C.; Martin, H.C.; Masterman,

Masterton, Matthews, K.L.; Maybury, McGowan, McPherson, Mitchell, J.; Murphy, Murray, Norton, Paradis, E.J.; Parent, Perkins, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Sproul, Stevens, Stover, Strout, Swazey, Telow, Theriault, Tuttle, Walker, Webster, Wentworth, Willey, Zirnkilton.

ABSENT—Brown, A.K.; Brown, K.L.; Cahill, Cashman, Chonko, Connolly, Higgins, H.C.; Jackson, Joyce, Kane, Lewis, McSweeney, Paul, Thompson, Weymouth, The Speaker.

Yes, 55; No, 78; Absent, 16; Vacant, 2.

The SPEAKER: Fifty-five having voted in the affirmative and seventy-eight in the negative, with sixteen being absent and two vacant, the motion does not prevail.

Thereupon, the bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Mrs. Cote of Auburn,
Adjourned until one o'clock tomorrow afternoon.
