

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Tenth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

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FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

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FIFTH SPECIAL SESSION

May 13, 1982

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SECOND CONFIRMATION SESSION

July 16, 1982

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STATE OF MAINE
One Hundred and Tenth Legislature
Second Regular Session
JOURNAL OF THE SENATE

Augusta, Maine
March 2, 1982

Senate called to order by the President.

Prayer by the Reverend S. Clifton Ives of the Pleasant Street Methodist Church of Waterville.

REVEREND IVES: Let us pray. We pause today because we know the tasks before us demand a wisdom and a peaceful spirit that You alone can give. Your spirit gives us wisdom. Wisdom infects our leadership. Our leadership is by choice and is a trust. That trust demands strength found in courage, which by Your grace we seek. In quietness we seek Your presence, that in wisdom we may act and with courage we might lead.

Be present with us now and bless all the people of our State this day and always. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Papers From the House
Joint Orders**

Expressions of Legislative Sentiment recognizing:

Billy Howes, of Katahdin High School, who has been named to the Eastern Maine All Tournament Boy's Class C Basketball Team for 1982. (S. P. 2116)

Stephen Craig, of Katahdin High School, who has been named to the Eastern Maine All Tournament Boy's Class C Basketball Team for 1982. (H. P. 2115)

Regina O'Brien, who lives in Ellsworth, and who has celebrated the 100th anniversary of her birth. (H. P. 2117)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

**Communications
Senate Chamber
President's Office**

March 1, 1982

Honorable Dana C. Devoe
Honorable Barry J. Hobbins
Joint Standing Committee on Judiciary
State House
Augusta, Maine
Gentlemen:

Please be advised that Governor Joseph E. Brennan is nominating Louis Scholnik of Lewiston for reappointment as a Superior Court Justice.

Pursuant to Title 4 MRSA Section 152, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/JOSEPH SEWALL President of the Senate
S/JOHN L. MARTIN
Speaker of the House
(S. P. 901)

Which was Read and referred to the Committee on Judiciary.

Sent down for concurrence.

State of Maine
Department of State
Division of Public Administration

February 26, 1982

To the Honorable 110th Legislature of the State of Maine

Attention: House of Representatives, Clerk Pert

Info: Senate, Secretary Ross

I have the honor to transmit herewith an initiated bill, "AN ACT to Repeal the Control of Milk Prices at the Wholesale and Retail Levels," and the results of the examination by this office of the initiative petitions relative to it.

The minimum number of valid signatures required to initiate this legislation is 37,026. On January 28, 1982, our office received 274 petitions said to contain 44,003 signatures. After extensive review we have determined the number of valid signatures to be 43,761.

This represents 653 fewer signatures than that indicated on our communication of February 2, 1982. All represent signatures on petitions in which the circulator was not known to be a voter as required. All but 53 signatures were rejected based on information, attested to by registrars of voters, which was not known at the time of the original certification but was supplied by those challenging the validity of the petitions.

Other challenges to the petitions validity were made but rejected, based on our own analysis and with the advice of the Attorney General's Office.

In view of the foregoing determination, I hereby certify that these petitions of 37,026 valid signatures. Since the petitions have previously satisfied the constitutional requirements in all other respects, under the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine, I do hereby declare this initiative petition to be valid.

In the event the Legislature rejects this initiative proposal, a referendum election will be called for November, 1982.

Respectfully,
S/JAMES S. HENDERSON
(H. P. 2120)

Comes from the House, Read and Ordered Placed on File. The Initiated Bill, "An Act to Repeal the Control of Milk Prices at the Wholesale and Retail Levels", (IB 3) (L. D. 1935) referred to the Committee on Agriculture and Ordered Printed.

Which was Read and Ordered Placed on File and the Initiated Bill referred to the Committee on Agriculture and Ordered Printed, in concurrence.

**Senate Paper
Study Report—Health and
Institutional Services**

The Committee on Health and Institutional Services to which was referred by the Legislative Council the study relative to the Maine Certificate of Need Process, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Amend the Maine Certificate of Need Law," (S. P. 900) (L. D. 2038) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Which Report was Read and Accepted and the Bill referred to the Committee on Health and Institutional Services.

Sent down for concurrence.

Orders

Expressions of Legislative Sentiment recognizing:

Elinor Multer, of Orr's Island, who has been appointed to the Maine Civil Rights Advisory Committee by the United States Commission on Civil Rights. (S. P. 898) presented by Senator CLARK of Cumberland (Cosponsor: Representative DILLENBACK of Cumberland).

The Eagles, of Lincoln Academy, and coach Dan Pinkham winners of the Girls' Class B Basketball Championship for the academic year 1981-1982. (S. P. 899) presented by Senator SEWALL of Lincoln (Cosponsors: Representative CURTIS of Waldoboro and Representative HOLLOWAY of Edgcomb).

Which were Read and Passed.

Sent down for concurrence.

**Committee Reports
House
Leave to Withdraw**

The Committee on Labor on, Bill, "An Act to Change the Time Limitation for Filing a Claim for Compensation of Occupational Disease."

(H. P. 1848) (L. D. 1829)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Create a Defense of Employee Noncompliance with Safety Procedures under the Workers' Compensation Act." (H. P. 1906) (L. D. 1881)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Public Utilities on, Bill, "An Act to Amend the Law Enabling the Supply of Water to the City of Bangor." (H. P. 1815) (L. D. 1800)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Education on, Bill, "An Act Amending the Charter of the Boothbay-Boothbay Harbor Community School District." (Emergency) (H. P. 1902) (L. D. 1887)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-611).

Comes from the House, the Bill Passed to be Engrossed, as amended by Committee amendment "A" as amended by House Amendment "A" (H-618), Thereto.

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read and Adopted, in concurrence. Committee Amendment "A" as amended by House Amendment "A", Thereto, was adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

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 Waldo County for the Year 1982. (Emergency) (H. P. 2103) (L. D. 2026)

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

House — As Amended

Bill, "An Act to Exempt Portions of the Central Maine Air Quality Control Region from Petroleum Liquids Transfer Vapor Recovery Requirements." (H. P. 1836) (L. D. 1833)

Which was Read a Second Time.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Passage to be Engrossed.

RESOLVE, Authorizing the Maine Forest Service to Convey by Bid Sale of the State's Interest in Certain Real Estate in the Maine Forestry District and to Use the Proceeds for Energy-saving Improvements to Other Existing Fire Control Buildings. (H. P. 1922) (L. D. 1904)

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

Senate — As Amended

Bill, "An Act Relating to Guide Dogs for Handicapped Persons." (S. P. 765) (L. D. 1823)

Which was Read a Second Time.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Passage to be Engrossed.

Enactors

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

AN ACT to Adjust the Fees for Licenses Issued by the Arborist Examining Board. (S. P. 739) (L. D. 1724)

AN ACT to Establish Directional Signs at Exit 8 of the Maine Turnpike for St. Joseph's College, the University of Southern Maine and Westbrook College. (S. P. 771) (L. D. 1821)

AN ACT Relating to the Terms of the Public Utilities Commissioners. (S. P. 812) (L. D. 1908)

AN ACT Relating to Control of Nuisance Wildlife. (H. P. 1722) (L. D. 1707)

AN ACT to Define Open Firearm Season on Deer. (H. P. 1723) (L. D. 1708)

AN ACT to Protect Maine Milk Producers from Abrupt Loss of Market. (H. P. 1726) (L. D. 1711)

AN ACT to Amend Certain Provisions of the Elevator Laws. (H. P. 1732) (L. D. 1717)

AN ACT to Provide for Withdrawal of Certain Lands from the Spruce Budworm Suppression Program. (H. P. 1750) (L. D. 1740)

AN ACT to Establish a Uniform Hunting Season for Raccoons. (H. P. 1775) (L. D. 1765)

AN ACT Concerning the Preservation of Archaeological Sites. (H. P. 1840) (L. D. 1854)

AN ACT to Remove the Interstate Business Exemption from the Unfair Trade Practices Act. (H. P. 1920) (L. D. 1902)

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

Emergency

AN ACT to Amend the Maine Traveler Information Services Act. (H. P. 1907) (L. D. 1882)

This being an emergency measure and having received for the affirmative vote of 29 members of the Senate with No Senators having voted in the negative was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

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

Bill, "An Act to Clarify the Certificate of Approval Holder and Maine Wholesale License Agreement Act. (S. P. 768) (L. D. 1826)

Tabled—Monday, March 1, 1982 by Senator CONLEY of Cumberland

Pending—Enactment

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

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

Papers from the House House Papers

Bill, "An Act Relating to the Collection of Signatures at Polling Places. (H. P. 2118) (L. D. 2039)

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

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

Bill, "An Act to Eliminate Discrimination in Cases of Prostitution. (H. P. 2121) (L. D. 2040)

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

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

Bill, An Act to Amend the Charter of the Lincoln Water District. (H. P. 2119) (L. D. 2041)

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed. Which was referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

There being no objections all items previously acted upon were sent forthwith, except for those items previously held.

Senator Wood of York was granted unanimous consent to address the Senate, Off the Record.

(Off Record Remarks)

On motion by Senator Collins of Knox, the Senate voted to take from the Table:

Bill, "An Act by Senator Collins of Knox, the Senate voted to take from the Table:

Bill, "An Act Relating to Guide Dogs for Handicapped Persons. (S. P. 765) (L. D. 1823) Tabled earlier in today's session by Senator Collins of Knox, pending Passage to be Engrossed.

On motion by Senator Pierce of Kennebec, the Senate voted to Reconsider its action whereby Committee Amendment "A" to LD 1823 was Adopted.

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

Senator PIERCE: Mr. President, I now present an Amendment under filing number S-393 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" (S-393) to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-393) to Committee Amendment "A" was Read and Adopted. Committee Amendment "A" as amended by Senate Amendment "A", was adopted, and the Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

On motion by Senator Collins of Knox, the Senate voted to take from the Table:

Bill, "An Act to Exempt Portions of the Central Maine Air Quality Control Region from Petroleum Liquids Transfer Vapor Recovery Requirements (H. P. 1836) (L. D. 1833) Tabled earlier in today's session by the Senator from Knox, Senator Collins, pending Passage to be Engrossed.

On motion by Senator Pierce of Kennebec, the Senate voted to reconsider its action whereby Committee Amendment "A" was Adopted.

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

Senator PIERCE: Mr. President, I now present Senate Amendment under filing number S-392 and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "A" (S-392) to Committee Amendment "A" and moves its adoption.

Senate Amendment "A" (S-392) to Committee Amendment "A" was Read and Adopted. Committee Amendment "A" as amended by Senate Amendment "A", was Adopted, in non-concurrence, and the Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

On motion by Senator Pierce of Kennebec, Recessed until 4 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

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

Papers from the House Joint Orders

Expressions of Legislative Sentiment recognizing:

Mr. and Mrs. Lawrence C. McCray, of Rumford, on the 50th anniversary of their wedding, which will be celebrated on March 14, 1982. (H. P. 2122)

John Hemond, of Minot, who is retiring March 6, 1982 after 30 years of faithful service to the people of Minot as an employee, and for many years as the Commissioner, of the Town Roads Department. (H. P. 2123)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Committee Reports House

Ought to Pass

The Committee on Business Legislation on, Bill, "An Act to Reduce Burdensome Fees for Businesses Incorporating or Expanding with No Par Value Stock." (H. P. 2006) (L. D. 1977)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Report was Read and Accepted, in concurrence, and the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Business Legislation on, Bill, "An Act to Adjust Fees for Licenses Issued by the Real Estate Commission." (H. P. 1809) (L. D. 1794)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-612).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-612).

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

Senate

Ought to Pass — As Amended

Senator CONLEY for the Committee on Judiciary on, Bill, "An Act to Provide the District Courts with Concurrent Jurisdiction Over Mechanics Lien Actions." (S. P. 746) (L. D. 1749)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-394).

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

Enactors

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

AN ACT to Transfer Certain Responsibilities for Insect Nuisance Identification from the Department of Conservation to the Department of Agriculture, Food and Rural Resources. (S. P. 741) (L. D. 1726)

AN ACT to Require Removal of Motor Vehicles from Great Ponds, Rivers, and Streams. (H. P. 1776) (L. D. 1766)

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

AN ACT to Adjust the Fees for Licenses of the Electricians' Examining Board. (H. P. 1728) (L. D. 1713)

On motion by Senator Sutton of Oxford, Tabled for 1 Legislative Day, pending Enactment.

Emergency

RESOLVE, Authorizing the City of South Portland to Bring a Civil Action Against the State. (H. P. 1782) (L. D. 1772)

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

Out of Order and Under Suspension of the

Rules, the Senate voted to consider the following:

**Committee Report
House
Divided Report**

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Prohibit Public Drinking on School Premises Without Requiring Prior Warning by a Law Enforcement Officer," (H. P. 1929) (L. D. 1912)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SHUTE of Waldo

VIOLETTE of Aroostook

CHARETTE of Androscoggin

Representatives:

COX of Brewer

STOVER of Bath

TREADWELL of Veazie

BOISVERT of Lewiston

STUDLEY of Berwick

MCSWEENEY of Old Orchard Beach

PERRY of Mexico

SOULAS of Bangor

DUDLEY of Enfield

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (H-616).

Signed: Representative:

SWAZEY of Bucksport

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-616).

Which Reports were Read.

The PRESIDENT: Is it now the pleasure of the Senate to Accept the Majority Ought Not to Pass Report of the Committee?

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I would urge you to vote against the pending motion.

If you look at LD 1912 or better yet if you look in your amendment book to House Amendment 616, you'll see what is in its essence the bill at this point.

What this Bill is attempting to do is take out the warning provision, from the law that we passed last year regarding public drinking, as it impacts on public elementary, and secondary schools

If you read the amendment it very simply says, that you can't drink on school premises, and you do not have to have a warning in order to be arrested for drinking on school premises.

I realize there are laws on the books regarding juveniles possessing alcohol at an age lesser than a certain number. I realize that there are other statutes on the books, but there has been, at least, one problem in this area. There has been, at least, one problem in this area, and there are school officials out there who foresee a real problem with a person at a public school, public school function on school grounds where you have to give a person a warning.

We had the warning provision put in this public drinking law last year. We thought it was appropriate that a person could only be arrested for the crime after they had been warned once.

I do not think that it is necessary that on public school property that this warning should have to be given. I've heard talk about you could post a notice that says: No drinking on the premises. I think that you have a problem when you get into court as to whether or not the person saw the notice; or whether in fact they had notice; Whether in fact they had been warned.

I've heard, the major argument against this bill is there is no problem. We had one incidence of a problem and how long do we wait before we rush back here to correct a situation that could lead to a lot of problems?

Look at the bills that we just enacted. Are

there real problems occurring every day in those areas? Do we wait until there is a major problem? Do we wait until there are one, ten, twenty, fifty cases that have gone to court and been dismissed, because the person did not have notice? How long do we wait?

I do not think that this statute, this proposed statute, is overly repressive. I do not think that it is going to infringe on anybody's rights to drinks. I do not see any valid logical reason why we shouldn't put people on notice that if they are going to use the facilities of public schools unless they have permission to drink at that school, that they are not going to be authorized to do so. That is exactly what this amendment would do. Therefore, I would hope that you would vote against the pending motion and Accept the Minority of one, Ought to Pass as Amended, Report of the Committee

Mr. President, when the vote is taken I would request the Yeas and Nays

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

Senator PRAY: Mr. President, is there a motion pending?

The PRESIDENT: The Chair would answer in the affirmative. The Chair stated the motion. The pending motion is the Acceptance of the Majority Ought Not to Pass Report of the Committee

The Chair recognizes the Senator from Waldo, Senator Shute

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, I told the sponsors of this Bill that if they could convince me that there was a necessity for this legislation I might even change my vote on it, and Senator Carpenter is doing a fairly good job of that.

The reason that the Legal Affairs Committee voted the way that they did on this Bill, is that we listened to testimony on it, and as far as we could determine there was only one school in the State that had this problem. We told the sponsors at that time if there were other areas of the State that had this problem we would certainly vote for this Bill, as we were sympathetic with this problem.

I think that most of us did feel that schools were a special place and should be put up a little higher on the ladder than our beaches, parks and other places

The problem that we ran into with the Bill, and we explored several possibilities, and one that I put forth myself was that on school premises we would go back to the old law and make public drinking a civil offense. Then if the person did not stop drinking at that time make it a criminal offense and go to our regular public drinking law.

Most members of the Committee felt that this would be too confusing for the public and did not want to go that route. I still feel that that could be a possibility.

Of course, this amendment on the public drinking bill was not presented to the Committee. The Committee had held the public hearing, taken a vote on the Bill, and after we had taken the vote then somebody changed their vote and they came back and it was made into a Committee Amendment which, of course, I felt that it should be a House Amendment or Senate Amendment at that time, not after you had completed your work session on the Bill.

The other thing, I think, the Committee thought of on this Bill, was should we have two separate standards for public drinking? One where you would get a warning and the second where you would not be provided with a warning, but would be automatically arrested, immediately.

My feet are not certainly entrenched in cement on this Bill. I am very sympathetic with the problem, but I think that I should explain the position of several members of the Committee on this Bill. Thank you.

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

Senator COLLINS: Mr. President, I'm inter-

ested in the remarks of the good Senator from Waldo. I can assure him the problem we are discussing here is not confined to one section of the State. I have seen evidence of it within my district, in the capacity of serving as a chaperone of high school social events

The burden of enforcing the drinking laws at high school social events and athletic events is considerable. There may be two or three police officers around, there may be one or two faculty members who are charged with monitoring this problem, but there may be 500 to 1000 youngsters. It becomes a disproportionate burden on the enforcers to really accomplish very much.

If there is, at the beginning, a known policy well established that does not involve warnings and signs, and so on, it seems to me we will have more effective administration of this policy within our schools

I've read the Committee Amendment that is in our books, House-616. It does seem to me to be a reasonable way to approach this problem. I'm pleased to hear the Committee Chairman say that this question does merit more than one opinion.

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

Senator CONLEY: Mr. President and Members of the Senate: I would state that I'm certainly delighted to know this Bill did not come before the Judiciary Committee. It didn't give me an opportunity to pursue any questions with respect to the proposed amendment.

As I read the Amendment, I am inquisitive as to whether or not a public school is just a public school. We have certain areas around the State where there are parochial schools that have very large auditoriums and hold dances. I wondered if one might be subject to this law within a public school, and yet, not be if a dance were held at a parochial school. I'll use Cheverus High School as an example, as an illustration. Yet, if kids were at Cheverus High School, they would not be subject to the law. I'd like that clarified.

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

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, as I understand the Amendment to the Bill, the Amendment only applies to Public School Premises, and not to parochial schools, private schools.

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

Senator VIOLETTE: Mr. President, and Ladies and Gentlemen of the Senate, just a few points I'd like to make this afternoon. I think one of the most relevant questions that was asked of school officials attending our Committee hearing was whether or not there was indeed a problem with adults drinking at school functions. The answer was no.

The only incident we are talking about today that evidently we know of occurred in Presque Isle. The reason why that particular incident had to be removed from the court was simply because the arresting officer made an error in the way he went about performing his duties. He did not give a reasonable warning.

We are not talking this afternoon about chaperoning school dances, with minors and juveniles, Senator Collins. We are talking about adults.

The Legal Affairs Committee last year had numerous public hearings and work sessions regarding the public drinking statute. Prior to 1982, a violation of such a statute was a civil offense. Quite frankly it was an unenforceable offense, and that was the problem.

That was the case in public schools, as well as on the beaches, as well as in any other area of the State that was a public place. The Committee felt that some change ought to be made here, some teeth ought to be given to a local official. But that we ought to impose a warning, so that we would not have the problems we have in some of our smaller communities

where officers, from time to time, do not use the discretion that they should.

All that we are saying here is that, quite frankly, I just do not see what this Bill does. What we presently have on the statutes is a law that says, it is improper to drink in public. All the arresting officer has to do, if somebody is an adult, is drinking in public, on any public property, be it a school or any other place, is issue a warning, walk a couple of feet and turn around. If he hasn't done what the officer has asked, he can arrest him.

This Bill, this law, doesn't have anything to do with students. If they're drinking on the premises, they're already subject to violation. It doesn't have anything to do with somebody who was causing a disturbance, who probably might not even be drinking.

I have not heard of problems relative to adults drinking in schools.

The other issue that was brought before the Committee was the problem relative to sporting activities, particularly this time of year, tournament time. The simple fact of the matter is that in many of our communities, and the tournaments themselves, are not held on public school property. Many of our public schools do not even have their own gymnasiums. The larger cities in the State of Maine, most of their events are held in town, are not held in public schools, but are held in civic centers, or town gymnasiums and things of this nature. This Bill would not apply to those places. It would not apply to parochial schools of any kind.

I think it's discriminatory in that nature. If we're going to have a Bill that's going to deal with schools, it ought to affect all of the schools in the State of Maine, but not just the public schools.

I think the opposition of the Committee to this Bill was that the need had not been shown by the school officials themselves. I think that's the reason why it probably is reflected in a 12 to 1 Report. The Bill just simply does not deserve to be Enacted.

So I would hope that you would vote for the Majority Ought Not to Pass Report. Thank you.

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

Senator HICHENS: Mr. President and Members of the Senate: I was a sponsor of the public drinking law, L. D. 96. That was mostly sponsored and put in, because of the problems at our beaches and parks and so on throughout the State. We realized when that Bill was passed, that there might be other problems which would arise, and we expected them. I don't think that the question of the public schools was even brought up when that Bill was debated a year ago.

Now the problem has arisen. The law became effective last spring. There were no school events that went on after the law became effective. Then this fall and early winter, problems started to arise. It just hasn't in Presque Isle, as the good Senator from Knox has said. They have problems in other schools.

In debate yesterday, I heard that the superintendents from other areas are endorsing this Bill, because it will help them with the problems that they are facing in their schools.

The good Senator from Aroostook has stated that all they have to do is give a warning. Now when they go into these places, like with a basketball game, and they're all up in the bleachers and so forth, how in the world is he going to get up, seeing somebody with an open bottle, and give him a warning before they have a chance to get rid of that bottle altogether?

We have 20-year-olds and under who are attending those games. Probably 80% of them are students. I don't believe that we should even allow liquor on school premises for these athletic events especially.

I realize that many towns use these schools as a utility building for their different functions. Perhaps some of the town officials have

voted to allow drinking at certain functions. The Amendment here clearly states the superintendent can not give permission if the towns have any other ordinance.

Regarding the private schools, I do not think we can legislate any rules regarding the private schools such as Cheverus. They have their own rules. I don't think you will find any drinking at any of the functions at Cheverus or any other parochial school throughout the State.

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

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, as I said earlier in the debate, if there was a need for this legislation, we should probably have it.

I just wish some of the people that are bringing up problems now had brought those problems up at the public hearing on this Bill. We only heard of one problem in the entire State, but now I hear every school in the State has a problem.

In order to take care of this Bill properly, I would like to withdraw my motion and give those that favor this type of legislation, and feel there is a problem, fair opportunity to explore it and amend it, if it's necessary to do that.

At this time, I'd like to withdraw my motion.

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

Senator CARPENTER: Mr. President, may I inquire of the Chair as to which motion was just withdrawn, the one to Accept the Majority?

The PRESIDENT: The good Senator from Waldo, Senator Shute, withdrew the Chair's motion. The Chair did not entertain the motion, so the motion still stands.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, very very briefly, I think some of the points that were raised by Senator Violette have some validity to them. I do think that as expressed by Senator Collins, there is a problem in other areas of the State, that is not being addressed by the present law.

I've had one question asked of me already. This would not, as I understand it, affect social functions that were authorized in some small rural areas of the State. If you want to hold a wedding reception, you do at the local high school or at the local school building, then this would not affect that as these people could get permission to bring alcoholic beverages on the premises.

I agree with the good Senator from York, Senator Hichens, that there is a problem in this particular area. I think that given the State's role in public education in the State and the amount of money that we spend on it and our vested interest in the public education, I think that there is room for argument that public, elementary and secondary, schools could be and should be an exception to the warning requirement of the private laws.]

I would hope you would vote against the pending motion. Thank you.

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

Senator HICHENS: Mr. President and Members of the Senate: In answer to the good Senator from Waldo, I would affirm that many people I have approached as to why they didn't go to the hearing and speak on the Bill, said that they had talked with members of that Committee and were assured that there was no problem with the Bill. So they didn't bother to take the Committee's time or take time from their work to go and appear on the Bill. That may answer his question.

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

Senator DEVOE: Thank you, Mr. President. Members of the Senate, before we vote on this Bill, I wonder if some of the proponents of what

is labeled Committee Amendment "A", filing number H-616, could address the question of when, or what are the circumstances under which a person who is an authorized person would be likely to give their permission to drink on school premises?

The situation that was just referred to by the Senator from Aroostook, Senator Carpenter, I don't think is applicable because if you have a wedding reception on school premises, that's not what is causing the problem. It is athletic events. It is dances, it is other social events. What would be the circumstances under which somebody who is an authorized person would be likely to even give their permission to drink on public school premises? You have to keep in mind that if you look at the present Section 2003A, that we debated hotly here last summer, schools are mentioned. It's not limited to public schools. Schools! You can commit a crime on private school property as well as you can on public school property.

I think that we have the right to legislate conduct that takes place on private school premises as well as public schools. That's one problem with Committee Amendment "A", as it is presently worded.

If you look at Committee Amendment "A", in line 13 you start talking about public drinking on school premises. You look at line 15, it talks about public drinking on school premises. Then the mischief, the loose use of words, works in on line 16 where it says, "A person is guilty of public drinking on school premises if he drinks liquor on the premises of a public school." It's just bad grammar, really. "Knowing that he is not licensed or privileged to do so."

So, because they inadvertently, perhaps, used the words public school, they feel they have to define it. That's part of the mischief of this Bill.

Now can somebody tell me, who is in favor of this Amendment, what are the circumstances under which an authorized person would be likely to give their permission at an athletic event, at a social event, at a dance, at a rally of some kind, that it's okay to go ahead and drink? If these types of events are likely to happen, then we've got a really bigger problem than we thought.

If it is not believable that you're going to have a principal, or a superintendent, or a school board member going around saying, "Well, gee, Sonny," I think you're responsible, so you can go ahead and take a sip, but everyone else here can't drink, then this Bill isn't going to do anything. Before a law enforcement officer tries to do something, he's got to go find out who's the authorized person in charge of these premises for this event. Did you have a list of people to whom you gave permission to drink? That isn't the way it's going to work in real life. This Amendment doesn't do a cussed thing.

Thank you, Mr. President.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, after 2 years of law school, heaven forbid that I be accused of using bad grammar.

This is not my amendment, I detected some of the technical problems that the good Senator from Penobscot, mentioned and if my position should prevail and the pending motion is defeated, then I have already spoken to persons to table this Bill for a day or so until we can clean up the language of the amendment. Take out the reference to public schools, if that is what we want to do, and make them schools, secondary and elementary schools, period. And clean up that other language and see exactly what that authorized persons situation does mean.

I do think that there is legitimate purpose, if we are going to go this route, that public facilities are used for private functions, and I think

that we need some language in there so that these private functions can be open to what the private parties contracting to use the facility want them to be open for, but I think that it is something that we could clean up in the clarifying amendment, before the Committee Amendment is accepted.

I understand what Senator Devoe is saying and I agree with him by enlarge, but if we could get past the first hurdle then we might table it before we tried the second hurdle and try to clean it up.

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

Senator DEVOE: Thank you, Mr. President, Mr. President, I submit that it may not even be necessary to think of getting past the first hurdle, because if you look at section 3, of the present law it says, "Evidence. The possession of an open container of liquor in a public place is prima facie evidence of a violation of this section." Isn't that what we are talking about? What have you got to do to prove that you violated the law? You can't drink from a sealed container of liquor very well, unless you are really far gone. So if you have an open container of liquor the way this law presently read, don't we have the answer right here?

It doesn't say that you have to give a warning. The warning section takes place up here in unauthorized drinking, but you've got this evidence, evidentiary section, the very end of the section 2003A, that says: "possession of an open container of liquor in a public place is prima facie evidence of a violation of this section". Thank you, Mr. President.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter asks Leave of the Senate to speak a fourth time.

Is there objection?

The Senator has the floor.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, in response to the good Senator from Penobscot's question, I hadn't thought about it, but I guess, going back to the scenario of the good Senator from York, Senator Hichens, if that person, violator, is 20 rows up in the bleachers probably he is not going to have possession by the time the officer gets there to give the warning. I guess, there that might be a problem.

Again, I would like to have a chance to sit down with the good Senator from Penobscot, if he doesn't and then we can maybe iron out something or maybe decide that we do not really need anything. Thank you.

On motion by Senator Hichens of York, Tabled for 1 Legislative Day, pending Acceptance of the Majority Ought Not to Pass Report.

Committee Report House Divided Report

The Majority of the Committee on Public Utilities on, Bill, "An Act to Establish the Position of Director of Engineering Within the Public Utilities Commission." (H. P. 1789) (L. D. 1779)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-615).

Signed:

Sensors:

TROTZKY of Penobscot
TRAFTON of Androscoggin
DEVOE of Penobscot

Representative:

DAVIES of Orono
BENOIT of South Portland
KANY of Waterville
VOSE of Eastport
McGOWAN of Pittsfield
RIDLEY of Shapleigh
CONNOLLY of Portland
BORDEAUX of Mount Desert
WEYMOUTH of West Gardiner

The Minority of the same Committee on the

same subject matter reported that the same Ought Not to Pass.

Signed:

Representative:

CUNNINGHAM of New Gloucester
Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-615).

Which Reports were Read and the Majority Ought to Pass, as amended, Report of the Committee Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

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

Senate Papers

Senator WOOD of York presented, Bill, "An Act to Provide for the Storage and Disposal of Illegal and Obsolete Pesticides and Handling Empty Pesticides Containers." (Emergency) (S. P. 905)

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

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

Sent down for concurrence.

Senator PIERCE of Kennebec (Cosponsors: Senator PERKINS of Hancock, Senator CLARK of Cumberland and Representative LIVESAY of Brunswick) presented Bill, "An Act to Provide Equal Access to Justice." (S. P. 902)

(Approved for introduction by the Legislative Council pursuant to Joint Rule 26.)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Orders of the Day

The President laid before the Senate:

Bill, "An Act Relating to the Collection of Signatures at Polling Places." (H. P. 2118) (L. D. 2039)

Tabled—Earlier in the Day by Senator PIERCE of Kennebec.

Pending—Reference.

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

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