

# MAINE STATE LEGISLATURE

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



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

**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**December 5, 1984 - June 20, 1985**

STATE OF MAINE  
One Hundred and Twelfth Legislature  
First Regular Session  
JOURNAL OF THE SENATE  
In Senate Chamber  
Friday  
May 3, 1985  
Senate called to Order by the President.

Prayer by Reverend Bruce Hudson of the Highland Avenue Methodist Church in Gardiner.

REVEREND HUDSON: shall we be in a spirit of prayer please. O God, Thou great Governor of all the world we pray for all who hold public office and power, and for the life, welfare, and virtue of the people who are in their hands.

Strengthen the sense of duty in our political life. Grant that these servants of the State may feel ever more deeply that any diversion of their public powers for private ends is a betrayal of their state.

Purge our cities, states, and nation of the deep causes of corruption which have so often made sin profitable, and uprightness hard.

Give our leaders new vision and set their hearts on fire with large resolves.

Raise up a generation of public men and women with faith and daring and the kingdom of God in their hearts, who will enlist for life in a holy warfare for the freedom and the rights of all people. Amen.

Reading of the Journal of Yesterday.

(Off Record Remarks)

#### PAPERS FROM THE HOUSE Non-concurrent Matter

Bill "An Act to Establish Fixed Dates for the Adjournment of the First and Second Regular Sessions of the Legislature" (Emergency) (H.P. 928) (L.D. 1333)

In Senate, April 18, 1985, **PASSED TO BE ENGROSSED** in concurrence.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-105)** in **NON-CONCURRENCE**.

On motion by Senator VIOLETTE of Aroostook, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION**.

#### COMMUNICATION

The Following Communication: S.P. 544  
112th LEGISLATURE

May 2, 1985

Senator Michael E. Carpenter  
Representative Edward J. Kane  
Chairpersons  
Committee on Judiciary  
112th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Kermit V. Lipez of South Portland for appointment as a Superior Court Justice.

Pursuant to Maine Constitution Article V Part 1 Section 8, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/ CHARLES P. PRAY  
President of the Senate

S/ JOHN L. MARTIN  
Speaker of the House

Which was **READ** and referred to the Joint Standing Committee on **JUDICIARY**.  
Sent down for concurrence.

#### SENATE PAPERS

Bill "An Act to Transfer and Allocate Funds to the Judicial Department for the Fiscal Year Ending June 30, 1985" (Emergency) (S.P. 546) (L.D. 1459) (Presented by Senator CARPENTER of Aroostook) (Approved for introduction by a majority of the Legislative

Council pursuant to Joint Rule 27)

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

Bill "An Act to Authorize a Self-liquidating Bond Issue for the County of Cumberland to Raise Funds for the Construction of a Court-house Addition, Capital Improvements to the Existing Structure and a Related Parking Facility" (S.P. 547) (L.D. 1460) (Presented by Senator NAJARIAN of Cumberland) (Cospponsored by: Representative DILLENBACK of Cumberland, Representative NELSON of Portland, Representative COOPER of Windham)

Which was referred to the Committee on **LOCAL AND COUNTY GOVERNMENT** and **ORDERED PRINTED**.

Sent down for concurrence.

#### COMMITTEE REPORTS

##### House

##### Ought Not To Pass

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

Bill "An Act Providing for a Maine Labor Relations Law" (H.P. 728) (L.D. 1037)

Bill "An Act to Make Incest a Class C Crime When the Victim is Under 18 Years of Age" (H.P. 92) (L.D. 112)

Bill "An Act to Require Criminal History Record Information 7 Days a Week, 24 Hours a Day" (H.P. 441) (L.D. 623)

Bill "An Act to Correct Oversights in the Teacher Recognition Grants" (H.P. 352) (L.D. 473)

##### Leave to Withdraw

The following **Leave to Withdraw** reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Define Farm Laborers" (H.P. 470) (L.D. 673)

Bill "An Act to Provide More Direct Field Service Through the Division of Forest Management in the Department of Conservation" (H.P. 354) (L.D. 475)

Bill "An Act to Provide for the Negotiability of Transfers, Reassignments and Promotions for Teachers" (H.P. 530) (L.D. 750)

##### Change of Reference

The Committee on **HUMAN RESOURCES** on Bill "An Act to Prevent Development Disabilities in Maine" (H.P. 964) (L.D. 1385)

Reported that the same be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

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

The Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**, in concurrence.

##### Ought to Pass As Amended

The Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act Concerning Revision or Amendment of Approved Subdivision Plans" (H.P. 722) (L.D. 1031)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-104)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-104)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-104) **READ** and **ADOPTED**, in concurrence.

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

##### Ought to Pass in New Draft

The Committee on **FISHERIES AND WILDLIFE** on Bill "An Act to Increase Penalties for Certain Hunting Violations Involving Big Game Animals" (H.P. 571) (L.D. 842)

Reported that the same **Ought to Pass in New Draft** under same title (H.P. 1000) (L.D. 1442)

Comes from the House, the Report **READ** and **ACCEPTED** and the Bill in **NEW DRAFT PASSED TO BE ENGROSSED**.

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

The Bill in **NEW DRAFT READ ONCE**.

The Bill in **NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING**.

##### Ought to Pass in New Draft under New Title

The Committee on **JUDICIARY** on Bill "An Act to Revise the Laws Pertaining to Real Estate Attachments, Disclosure Proceedings, Levy on Execution and Exempt Property" (H.P. 322) (L.D. 437)

Reported the same **Ought to Pass in New Draft under New Title** Bill "An Act to Revise the Laws Pertaining to Real Estate Attachments, Levy on Execution and Exempt Property" (H.P. 1005) (L.D. 1449)

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill, in **NEW DRAFT under NEW TITLE PASSED TO BE ENGROSSED**.

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

The Bill, in **NEW DRAFT under NEW TITLE, READ ONCE**.

The Bill, in **NEW DRAFT under NEW TITLE, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **JUDICIARY** on Bill "An Act to Establish a Living Will" (H.P. 458) (L.D. 660)

Reported the same **Ought to Pass in New Draft under New Title** Bill "An Act Concerning Living Wills" (H.P. 1004) (L.D. 1448)

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill, in **NEW DRAFT under NEW TITLE, PASSED TO BE ENGROSSED**.

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

The Bill, in **NEW DRAFT under NEW TITLE READ ONCE**.

The Bill, in **NEW DRAFT under NEW TITLE TOMORROW ASSIGNED FOR SECOND READING**.

#### Senate

##### Leave to Withdraw

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

Bill "An Act to Amend the Home Weatherization Program" (S.P. 104) (L.D. 319)

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

Senator PERKINS of Hancock was granted unanimous consent to address the Senate Off the Record.

On motion by Senator GAUVREAU of Androscoggin

**RECESSED** until the sound of the bell.

After Recess

The Senate called to Order by the President.

#### ORDERS OF THE DAY

On motion by Senator VIOLETTE of

Aroostook, the Senate removed from the Unassigned Table the following matter:

Bill "An Act to Establish Fixed Dates for the Adjournment of the First and Second Regular Sessions of the Legislature" (Emergency) (H.P. 928) (L.D. 1333)

Tabled—May 3, 1985, by Senator VIOLETTE of Aroostook

Pending—**FURTHER CONSIDERATION**

(In Senate, April 18, 1985, **PASSED TO BE ENGROSSED**, in concurrence.

(In House, May 2, 1985, **PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-105)**, in **NON-CONCURRENCE**.

**THE PRESIDENT:** Is it now the pleasure of the Senate to Recede and Concur?

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Mr. President, I would just like to have someone on the Committee explain the difference (on the Record please) between how this Bill is now and how it was when it left this Body before. Thank you, Mr. President.

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

Senator **KANY:** Mr. President and Senators, we debated the basic issue at length recently, and just to remind everyone the Constitution requires us statutorily to limit our annual sessions, normally all of our procedures are done by Rules.

During our debate before, we focused particularly on the dates that the Governor's legislation should appear before the Legislature. Subsequently, to remind everyone the President of the Senate and the Speaker of the House rejected such legislation as being late in coming forth. That all had to do with the Rules. It is up to the Maine Legislature to determine its procedures by Rule, but we must statutorily limit the length of our sessions. Currently, the law is one-hundred days for the first annual session and fifty days for the second annual session.

The amendment before us would remove the one-hundred days and the fifty days from the current law, and instead set a date certain for adjournment. For the first annual session it would be the third Wednesday in June, and the second annual session it would be the third Wednesday in April. The current law which allows five Legislative Days to twice be made as extensions would still be retained.

I hope that we do go along with the Recede and Concur motion. I do believe it is reasonable; it allows us if not exact certainty, (of course there is very little certainty having to do with any Legislature, particularly the Maine Legislature) certainly, more certainty that at present regarding approximate adjournment date, so that people can seek employment or make other plans.

I, also, would suggest that it would encourage us to be more efficient. Of course, once again, it probably would be impossible to impose efficiency upon the Maine Legislature, or any other Legislative body. I believe that more certainty in the adjournment dates could encourage more efficiency; and particularly now at this period in the Legislative session, perhaps could allow us to what is probably most appropriately done right now, and that is to spend even more our waking hours concentrating on the committee business, where most of our legislation is.

I urge you to go along with the Recede and Concur motion.

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

Senator **DIAMOND:** Thank you, Mr. President, Ladies and Gentlemen of the Senate, I would ask you not to go along with this move.

I think what we have before us, is basically an artificial ending trying to address a problem that we know runs much deeper than that. We have a problem with our Rules; we have our

own Rules, for example, that say that all bills have got to come out of committee by the end of March. We don't follow that one. We have other Rules that we don't follow. Obviously for a good reason, because we all have things that have to be done, representing the people back home—people of this State.

To simply say that we're going to put an artificial ending on this, which is going to make everything else all better now; it is just leading us down the primrose path, and I think we all know better than that.

There is nothing certain about this date. We are talking about the third Wednesday in June which is June 19th. Now we have two five-day extensions we can add on so that brings it to July 3rd; and for those folks who worry about employment and having some kind of need for certainty, this really doesn't help you that much; in fact, this year it doesn't change one thing.

So, I think we ought to consider what we're doing. Trying to address the problem is one thing, but simply saying to ourselves, we'll put an artificial cap on this, and we will end up making ourselves much more efficient. Well, efficiency is our problem—absolutely! I understand leadership is going to be putting together a subcommittee to deal with looking in depth into the rules.

Some of the things that we need to change, may be is the Governor's package, we've got some problems with the Rules that deal with that. We've got bills that are being let in right now, and will be next week, and the week after. We can't continue to try to solve those problems by just saying we're going to stop on the third Wednesday in June. What if we're not done? Or do we squeeze everything in the last few days—like we're doing now! This hasn't changed anything.

I think it is conceptually a very radical change we're making without addressing the real underlying problem here. I would hope, that we would give leadership a chance with their subcommittee to do what they have to do, and come back next year and tell us what needs to be done, and then we'll put a date on it—if that's what they call for, and go ahead having accomplished something meaningful.

To go at it backwards, I think, is something that we don't want to get into. If, for example, leadership's subcommittee comes back and tells us that they've found some of the major flaws, they've found some of the rules that need to be changed or bolstered, but it doesn't coincide what we've done this year, we have to change it again. In the last eight or nine years we've been in that fix before. Where we have changed something and come back and changed it again. I think that we ought to wait. Look and see what the problems are in a common sense way, and then change it the way it needs to be changed, if it does.

Let's address the problem, and let's not try to make ourselves feel better by doing something hastily, such as we might be doing here. Thank you, Mr. President.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate, being around for awhile has its advantages and disadvantages, and I think it's an advantage in this particular debate.

Lots of years have gone by since I first came here. When I will have completed this term, I think, it is eleven or twelve years that I would have been in the Maine Legislature. I've seen a lot of things.

One of the things that I have seen is, it's not always true but it is all too often true, and that is a lot of times we'll go through a session, we'll hurry up our work. We'll get to the end of the session. Then in the fall we will be called back for a special session, and we make more errors in special sessions than in anything else. That's why I think we ought not to be putting artificial

dates on the time when we end. I would much rather spend the time here is a regular session doing good work, slow work, sometimes tedious work and do a good job, than I would be to be called back into special session to be asked to deal with a major item and make mistakes.

Much of what we did last fall was good. There were a lot of mistakes, however, and I kind of think they don't occur so often during a regular session.

Now the good Senator from Kennebec, Senator Kany said, "if you have a date" and (Senator Diamond addressed this, too) if you have a date to get out then you've got a better chance of employment."

Senator Diamond has already showed you that that's not certain anyway because they extend it five days, another five days; you can't tell you employer exactly when you're going to get out, even under this plan, but there's nothing anymore disruptive than being called back into session in September, October or November, which I think can happen under this proposal.

The Senator from Kennebec, Senator Kany has said, "you know, under this proposal we could do more committee work." (She alluded to a little bit in here and more in the Democratic caucus, that you can do more committee work) "because you wouldn't have to go in, have a prayer, do a few things and then adjourn and go to committee; you lose the time and everything."

I'd like to point out to you that over the last twelve years I've seen it work both ways on Friday. The reason we're here at twelve o'clock noon on Friday is because we've found out that if we don't have a session, people don't go to committees in the morning. If you think committee are going to be well-attended when there's no session around—they won't be. The attendance will be way down and some of us, especially those of you who deal with committees, members serve on two or three different committees. You know how difficult that is!

I don't see that the amendment on this particular Bill as it comes from the other Body is any different, except in the matter of two or three or four days, than it was when it went over to the other Body. I don't see that it accomplishes anything. If you want to do something, you require that there has to be two people to sign out a bill out of committee, or some other reform like that. That's when your efficiency will start to pick up—not by putting on an artificial date that everybody races to the wall on.

Really people, I think it would be good for the Maine Legislature to get out early. I hope that it gets out early. I would like to be in Enfield right now, but I tell you, I would even more like to do a good job.

I can remember, as can the good Senator from Waldo, Senator Shute of coming back here after the 4th of July vacation and staying until it was one hundred degrees around here; but we did our duty, that's what we ought to do, no artificial date. With a hundred days you can, if you need to, not have a session, save up your time so that you can address those things, send people to committee to get them done. With an absolute deadline of the third Wednesday in June, you're pushing up right up against that wall. I don't think it's good government. I really don't.

I think there are a lot of other things that can be done, other reforms like two people putting things out of committee, that could be a lot better than this.

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

Senator **TUTTLE:** Mr. President, I would request a Division and would hope everybody would vote against the pending motion.

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

Senator **KANY:** Mr. President and fellow

Senators, I request a Roll Call and would just like to add a couple of things. One is the good Senator from Cumberland, Senator Diamond, first of all said, "that the amendment doesn't really change anything from current law and then called it a radical change." I don't think you can have it both ways, and I'd like to remind you that our Constitution does mandate that we set a statutory limit.

The third Wednesday in June is June 19th, which would be approximately the one hundredth day this year; so we would not be changing the rules in the middle of the game; as I recall was an objection to the previous amendment we had before us.

I urge you to go along with this. I think it is reasonable and we certainly can, in addition, to change our rules to make our operations more efficient.

(Off Record Remarks)

**THE PRESIDENT:** A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Mr. President, just a quick response. Ladies and Gentlemen of the Senate, first the Senator from Kennebec, Senator Kany just made a radical change. Obviously, when we check the horseblanket we will see that it said there was no change this year, but the concept is, indeed radical.

I, also, point out that we have done a lot of things; we've changed our organization from January to December; we made some changes in the Constitution; we moved some things around so that could happen to affect efficiency, and we got a new computer system. Ten years ago you didn't see things happening the way they happen now. They have been much better. We haven't shortened our time any; in fact, we're still struggling to get out at the end.

I also would point out as I look around the Senate Chamber today, I see nine freshmen. Some of these people are not really freshmen because they served in the other Body. You know at the end of the session is where most of our large bills and time-consuming bills come, and this year is no exception; we have workers' comp; we have motorcycle helmets, we have seatbelts; we have parental consent, we can go just right down the lists, every committee has them.

I think that if we're talking about putting an end on this that says "we're going to stop right here, the third Wednesday in June whether, or not we're done," I think we have to stop and think about that again. That same situation will be here next year, and the year after that, and the year after that, until the problem is addressed, and we've not yet addressed it.

I don't want us to leave here today thinking we have by simply passing this Bill on to the other Body for Enactment. I think we ought to stop this now and have the studies that need to be done and then come back and make the changes that we need. Thank you very much.

(Off Record Remarks)

**THE PRESIDENT:** A Roll Call has been ordered.

The pending question before the Senate is the motion to **RECEDE** and **CONCUR**.

A Yes vote will be in favor of **RECEDING** and **CONCURRING**.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

**YEAS:**—Senators, Andrews, Berube, Brown, Bustin, Chalmers, Clark, Dow, Dutremble, Erwin, Gauvreau, Gill, Kany, Perkins, Shute, Usher, Violette, The President—Charles P. Pray

**NAYS:**—Senators, Black, Diamond, Hichens, Matthews, Maybury, McBreairty, Pearson, Sewall, Stover, Tuttle, Twitchell, Webster

**ABSENT:**—Senators, Baldacci, Carpenter, Danton, Emerson, Najarian, Trafton

17 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 6 Senators being absent, the motion to **RECEDE** and **CONCUR**, **PREVAILED**.

**Divided Report**

The Majority of the Committee on **ENERGY AND NATURAL RESOURCES** on Bill "An Act to Prohibit the Use of Chemical Insecticides in the State Budworm Suppression Program after 1985" (S.P. 350) (L.D. 978)

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

Signed:

Senators:

USHER of Cumberland  
EMERSON of Penobscot

Representatives:

MICHAUD of Medway  
JACQUES of Waterville  
RIDLEY of Shapleigh  
HOGLUND of Portland  
DEXTER of Kingfield  
BROWN of Livermore Falls  
HOLLOWAY of Edgecomb  
LAW of Dover-Foxcroft

The Minority of the same Committee on the same subject reported that the same **Ought to Pass in New Draft Under New Title** Bill "An Act to Reduce Public Health Risks in Spruce Budworm Control Efforts" (S.P. 545) (L.D. 1458)

Signed:

Senators:

KANY of Kennebec

Representatives:

MITCHELL of Freeport  
COLES of Harpswell

Which Reports were **READ**.

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

Senator **USHER:** I move we Accept the Majority Ought Not to Pass Report.

**THE PRESIDENT:** The Senator from Cumberland, Senator Usher moves that the Senate **ACCEPT THE MAJORITY OUGHT NOT TO PASS** Report of the Committee.

Is this the pleasure of the Senate?

The Chair recognizes the Senator from Washington, Senator Brown.

Senator **BROWN:** Thank you, Mr. President. I request a Division on the motion that just has been made, and would like to speak to that for a few minutes.

First off, this is a public health bill that we have before us. I've supported the Department of Conservation and the chemical spray program that has taken place over the years. I've been to Presque Isle. I have witnessed the operation which is an outstanding one. I've been very supportive of that over the years.

When we farm a forest, we are managing a natural biological system. It produces wood which is what the paper companies like out of it. It also has within it the fish and the fur games, birds, bugs and a lot of other things within the forest.

The original Bill which we don't have before us right now, unfortunately. The original Bill L.D. 978 sought the use of an alternative to chemical pesticides. To use a natural control not a chemical control in combating spruce budworm. The amended version is less than that, it simply asked that we use the safest of the chemicals available.

We have sufficient research presently. Just talk about the original version for just a moment. We have sufficient evidence presently in regard to Bt, in regard to its effectiveness

which is overwhelming. Bt, by the way, stands for *Bacillus thuringiensis* which is a very narrow spectrum organism that attacks a very small range, a very narrow range of organisms that reside in the forest.

We know it is effective. There's no doubt whatsoever at this point about its effectiveness. The scientific forest management area in the Baxter State Park from 1978 to 1980 proved that. The Passamaquoddy Tribal lands from 1983 to present have used Bt's exclusively. They know that. The Baskahegan Company land from 1982 and 1983, they used that as effective. The natural use of Bt and the control of gypsy moth, nationally is not even questioned. We know it is effective.

We also just as surely know what was effective chemicals do, and the risks that are associated with them. We could talk about DDT and the fact that it resides in huge quantities in the forest and the peat bogs in this State, even today.

We could talk about DES, we could talk about phenylamine. Those all had Federal approval to be used and the way that they were used.

In addition to the Federal approval, there's also accidents that occur. We could talk about the C-54 that went down in Eagle Lake full of pesticides.

We could talk about the Dennysville incident up in my part of the world where the town was sprayed accidentally because of wind-drift that occurs. We could talk about an unwashed tanker with water that was for a lobster pound that contained some pesticide residue in it.

We could again talk about the irreversible damage that has been done to the forest as the result of DDT; it is still residing in the peat bogs. If we ever decide to mine the peat bogs where there is a great wealth in my part of the world, or some other, we could probably upset the DDT that's there, and have a massive cost to have them dispose of that even yet. Those were all approved by the Federal Government.

I honestly felt that this was the year that this State could take and produce a policy statement on the use of pesticides in the forest. I thought that because of the editorials that have appeared in all the major newspapers of this State. I thought that because of the fact that the Bhopal, India, incident that happened, and the fact that Zectran was no longer available forced the State to have to use eighty-two percent this year of Bt.

I thought this would be the year that we could get a broad statement in regard to the use of pesticides in the spruce budworm in the State of Maine. In an effort to compromise, the committee offered an amendment in there to the original Bill which said that if Bt was not available in sufficient quantities, or if we said that because of the wet conditions that exists in the forest that we need to use chemicals, that the Commissioner had the authority to do that. No, we couldn't even get that out of the Committee.

On top of that, you know the reason why the Bureau of Forestry said, that, "we're taking a management tool," and the paper company say "we're taking a tool of management out of their hands by saying they can no longer use pesticides." They don't question it's use, as far as the effectiveness of Bt, it's not a question. The question is, whether or not we're taking a tool out of their hands for some future use.

Just when we're in a position this year to make a broad base public health statement, we said "no" because a management tool might be taken away from the people that control spruce budworm.

Members of the Energy and Natural Resources Committee who felt kindly toward this Bill, even tried to amend it further by reporting out L.D. 1458, which you have before you, the Minority Report. All this does, Ladies and Gentlemen of the Senate, it requires that the Commissioner, each year, determine which

is the least environmentally from a public health standpoint, the least damaging, and just simply use that chemical. You know, we still couldn't get any kind of Majority Report on that. People said over and over again that paper companies control this State. Again this year with the policy poor Bureau of Forestry that we have, we see the same situation existing.

The Social Services Bureau of the Institute of UMO conducted research for the Maine Forestry Service in 1979. I guarantee if it were done today it would be a greater majority. Ninety percent of the adult population is concerned about the use of pesticides. Fifty-nine percent want them abolished in the spruce budworm program.

By using Bt we could eliminate the extensive buffer zones that we now have to worry about. People with organic farms, or whatever, might be caught in the wind-drift, it's going to take over and damage their farms. We wouldn't have to worry about those buffer zones as much. We wouldn't have to worry about the small lakes and streams that get dumped in every year, because of the very best effort that is done is not good enough.

This year, we are approaching the twenty-second year of spraying of an infestation that historically lasts from six to eleven years. This is our twenty-second year to spray. Why is that? I submit to you that the reason is the same reason that we had this year in the salmonella outbreak that we had in this country, where huge quantities of antibiotics are stuffed into cattle, and as a result of that, we have organisms that are pretty highly resistant to the standard antibiotics that exist. We're developing continually; we have to search continually for stronger pesticides to control spruce budworm.

In 1983, a research forester who addressed a group in Portland, said that "the spruce budworm infestation has existed only as long as they have in Maine due to the pesticide use." Over the past thirty years we've used thirteen different pesticides. DDT was the first one 1954 to 1967, that was through seven spray seasons that was used. Carbo was next; it was terribly lethal on birds, and we got rid of that one pretty soon.

Bt, Ladies and Gentlemen, is the one that is the least damaging of all. The least damaging of all, and it does kill caterpillars and butterflies. It is least damaging of anything we could use to control spruce budworm, but let me forget about the Bt because that's not the issue before you right now.

The issue before you now, you've got a Minority Report that says this, "the State, through its Bureau of Pesticides Control, shall select a preferred insecticide for use on budworm, which is the safest from the perspective of human health and environmental change. All other properly registered insecticides can be used if: (1) the preferred insecticide is not available in sufficient quantity; or (2) there is a substantial cost differentiation. The cost is no longer an argument, by the way; (3) it is demonstrated that the preferred insecticide won't be effective under some anticipated condition.

That's all this Bill says right here before you. That the Commissioner should just designate what is the preferred insecticide to be used, nothing is banned. The State is simply making an ethical commitment to using a safe insecticide, and Ladies and Gentlemen, I ask you, is that too much?

Mr. President, when the vote is taken, I like it by the Yea's and Nay's.

**THE PRESIDENT:** A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing un-

til counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Mr. President and Senators, I just want to add a word or two to what the good Senator from Washington County, Senator Brown said. His Bill sponsored by the good Senator is a very important Bill in my opinion. It's about time that we look at the facts concerning our spraying, and we realize as those of us on the Agricultural Committee, and those of us on the Energy and Natural Resources Committee, and those of us probably on the Audit and Program Review Committee, and those involved in the health area already know, and that is that, herbicides and pesticides are very dangerous. It isn't just an esthetic matter; it has to do with public health, and certainly I know that Senator Erwin, the good Senator from Oxford knows full well, as I do, that it is impossible with the current state of technology to apply pesticides by air without drift.

I hope you keep that in mind, as you vote on this Bill. After all, we are talking about people and the food strain, not just butterflies and flowers and trees. No one is asking that we not apply something to help eradicate the budworm problem. That is not the contents of this Bill; it simply asks that public health finally be considered, and not just to have the decisions on what is to be sprayed—be purely a short-term economical concern.

In my opinion, not only is it smarter to focus on the public health concerns, but in the long run, maybe just inadvertently, but whatever, I believe that there will be long-term economic benefits to think in terms of the public health.

Certainly DDT and dioxin were licensed, supposedly appropriate chemicals. We have found that there are long-term ill effects economically in association with the use of those. I'd like to point out in L.D. 1458, which does not prohibit the use of chemical pesticides at all, but there are provisions that after okaying certain spraying mechanisms, and certain items because of the public health benefits, that if for some reason they are not adequate, then you certainly could go to others that were not so listed.

I advise you to go along with Senator Brown's reasonable request and that you go against the Majority Ought Not to Pass motion and send this Bill on its way.

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

Senator **PEARSON:** Mr. President, I would like to pose a couple of questions to whomever might care to answer.

**THE PRESIDENT:** The Senator may pose his question.

Senator **PEARSON:** First of all, these make a great deal of difference to me on how I vote. Does this affect this spray season? Secondly, if it does affect this spray season, have the companies already ordered the material that they need to have in order to spray?

**THE PRESIDENT:** The Senator from Penobscot, Senator Pearson has posed questions through the Chair which any Senator may respond to if they so desire.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Mr. President and fellow Senators. I am glad you ask, Senator Pearson, that is an excellent question. There is not an emergency preamble on this Bill and there doesn't need to be. Inadvertently, under circumstances not under the control of anybody here in the State of Maine, we will be using less chemical pesticides this year, only because of the disaster in India in which two thousand people were killed. It meant that we simply do not have the availability of that chemical pesticide for this summer. Only because of that are we and increasing our use to eighty per-

cent and moving away from the chemical pesticide for this summer. So it is not an emergency measure and that is the reason why it doesn't need to be. Regardless of what the Department or anybody else wants to do, foresters throughout this State do not have that available to them because of that horrendous disgusting disaster that occurred in India.

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

Senator **PEARSON:** Mr. President I would like to pose a question again. Does this affect this spray season? If so, have the materials already been ordered?

**THE PRESIDENT:** The Senator from Penobscot, Senator Pearson has posed questions through the Chair which any Senator may respond to if they so desire.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Mr. President and Senators. Once again there is no emergency preamble on the Bill and therefore, the statute would not go into effect until the fall. Our spray season is in June.

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

Senator **McBREAIREY:** Mr. President and Honorable Members of the Senate. I hope that you will go along with the Ought Not to Pass Report.

The Spruce Budworm Spray Program is the best controlled pest monitored spray program in the world. We should be concerned with using pesticides and that is why it is the best controlled. We have both spotters and monitors that watch these planes and make sure that they do what they should be doing.

They use about thirty ounces per acre on an acre of woodland when they spray. If you decide to check into it, you'll find that there is more pesticide used in the Senator Motel kitchen, and in your grocery store each year than is used on an acre of woodland. Just check that out. I have, and I know that that is true. There are people who use more pesticides on their screen door during the summer than we use on an acre of forest land and it is in many cases the same chemical that we use on forest lands.

So, I hope that you do Accept the Ought Not to Pass Report.

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

Senator **USHER:** Thank you, Mr. President. Mr. President and Members of the Senate. I haven't checked any restaurants lately, but I am sure the good Senator from Aroostook is accurate.

The concern is, do we monitor our program? Being a new member on this committee I have in fact, found that we do have one of the finest programs in the country because we are concerned. This is our greatest resource in the State. Where would we be without our forests? They are our greatest resource.

They are monitored by the Bureau of Forestry, and that person is a very dedicated person. He is very accurate in the many facts that have been before us, he makes mistakes like all of us on certain things, but he has been very accurate in regard to this. It is, also being monitored by the Pesticide Board by their control of the chemicals. The paper industry, who has a large amount of money invested into this program, monitors it through a sub-committee. How many more groups can we ask to monitor this program?

The information has been put forth before the Committee many times. Any time they want to ask questions the information is there.

We have been concerned about the public health. Any questions that the Committee wanted to ask, they asked, and they received answers. They are concerned about the public health and they want to improve it, and they are working toward improvement. With the cooperation of the Committee and all these people involved, all the committees involved,

I think that we'll improve each year.

Presently, the Spruce Budworm Program is on the downhill slide, there are less requests, I believe, this year. This is one of the reasons why there are less pesticides being used, and the other one is the availability.

The industry has to submit to the Bureau of Forestry by the first of the year what acreage that they want sprayed. So this won't affect this year at all. They already have on record what they want sprayed for the year and they have to spray the first part of June to be effective.

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

Senator **BROWN:** Mr. President, I don't want to prolong this to the point of driving everyone completely berserk but I do want to make a couple of other comments. The good Senator from Aroostook, Senator McBreairty has talked about the carefulness, as the good Senator from Cumberland has, in regard to the carefulness the Bureau exercises in administering the program. I agree with them, they do an excellent job at monitoring, but we still had the accident in Eagle Lake, we still had the spray incidence in Dennysville, we still have, we still have and I could go on and list them down the line. We still have the accidents that occur.

I haven't researched to know if the Senator uses more pesticides in its kitchen than is used on an acre of forest but I would like to follow up on that a little bit. I do know that I am from Washington County and I do know that we have practically forgotten about the forest over there for the next twenty years because they are in such poor condition. We don't even spray anymore because the Spruce Budworm has taken over. That is with extensive use of pesticides. Still they took over nevertheless.

A natural infestation that would have lasted six to eleven years, we've been dealing with for twenty-two years. Now we are waiting about twenty years to have a new growth of forest alone. We have twelve hundred acres that are burning over there, yet today, as a result of the Spruce Budworm damage, and I attribute a lot of that to the pesticides that are being used to prolong the thing over the years.

Now is the time for a public policy statement. Thank you Mr. President.

**THE PRESIDENT:** A Roll Call has been ordered.

The pending question before the Senate is the motion by Senator **USHER** of Cumberland to **ACCEPT THE MAJORITY OUGHT NOT TO PASS** Report.

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

A No vote will be opposed.

Senator **CLARK** of Cumberland who would have voted Nay, requested and received permission to pair her vote with Senator **EMERSON** of Penobscot who would have voted Yea.

Senator **SEWALL** of Lincoln who would have voted Yea, requested and received permission to pair her vote with Senator **TRAFTON** of Androscoggin who would have voted Nay.

Senator **DUTREMBLE** of York who would have voted Yea, requested and received permission to pair his vote with Senator **NAJARIAN** who would have voted Nay.

Is the Senate ready for the question?

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

#### ROLL CALL

**YEAS:**—Senators, Black, Dow, Erwin, Gill, Hichens, Maybury, McBreairty, Perkins, Shute, Stover, Twitchell, Usher, Violette, Webster, The President—Charles P. Gray

**NAYS:**—Senators, Andrews, Berube, Brown, Bustin, Chalmers, Diamond, Gauvreau, Kany, Matthews, Pearson

**ABSENT:**—Senators, Baldacci, Carpenter, Danton, Tuttle

15 Senators having voted in the affirmative and 10 Senators having voted in the negative, with 6 Senators having Paired their votes and

4 Senators being absent, the motion to **ACCEPT THE MAJORITY OUGHT NOT TO PASS** Report **PREVAILED**.

Sent down for concurrence.

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

(Off Record Remarks)

#### Divided Report

The Majority of the Committee on **TRANSPORTATION** on Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S.P. 383) (L.D. 1050)

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

Signed:

Senators:

ERWIN of Oxford  
SHUTE of Waldo

Representatives:

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

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

Signed:

Senator:

DANTON of York

Which Reports were **READ**.

On motion by Senator **VIOLETTE** of Aroostook, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER COMMITTEE REPORT**.

#### SECOND READERS

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

##### House

Bill "An Act to Amend the Law Concerning Smoke Detectors in all Multiapartment Dwellings" (H.P. 279) (L.D. 349)

Resolve, Pertaining to a State Employee Health Promotion (Emergency) (H.P. 990) (L.D. 1428)

Bill "An Act to Prevent Double Benefits for the Same Period of Service, to Provide Membership as of the Effective Date of First Contributions and to Provide that Benefits be Paid only to Members, their Dependents or Beneficiaries" (H.P. 999) (L.D. 1441)

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

Bill "An Act to Establish the Departmental Indirect Cost Allocation Program" (Emergency) (H.P. 998) (L.D. 1440)

Which was **READ A SECOND TIME**.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED**, in concurrence.

#### House As Amended

Bill "An Act to Establish a Fire Fighter Training Facilities Grant Program" (H.P. 152) (L.D. 186) (C "A" H-100)

Bill "An Act to Clarify the Definition of Spouse and to Add a Definition of Substantial Gainful Activity" (H.P. 426) (L.D. 606) (C "A" H-102)

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

#### Senate

Bill "An Act Concerning the Value of Prizes that may be Awarded on Beano" (S.P. 372)

(L.D. 1006)

Bill "An Act Providing for Change of Venue of Criminal Cases" (S.P. 543) (L.D. 1452)

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

Sent down for concurrence.

#### ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following: An Act to Recodify the Election Laws" (S.P. 205) (L.D. 576) (C "A" S-52)

An Act to Amend the Municipal Development District Law (H.P. 370) (L.D. 525) (H "A" H-94; H "B" H-97)

An Act to Investigate the Importation and Disposal of Solid Waste and Hazardous Waste in Maine (H.P. 775) (L.D. 1096) (C "A" H-93)

An Act Validating the Vote to Convert Wallagrass Plantation into the Town of Wallagrass (H.P. 974) (L.D. 1396) (H "A" H-95)

An Act to Require Notice of the Smoking Policy in Restaurants (H.P. 970) (L.D. 1379)

An Act to Clarify the Use of the Hand Fishing Scallop License (H.P. 411) (L.D. 564)

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

An Act to Study the Location of the Supreme Judicial Court in the City of Augusta (H.P. 973) (L.D. 1395)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

#### Emergency

An Act Concerning Removal of Child Abusers from the Household (H.P. 954) (L.D. 1373) (H "A" H-98)

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with 10 Senators having voted the negative, and 25 being more than two-thirds of the entire elected membership of the Senate was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

(Off Record Remarks)

#### ORDERS OF THE DAY

The President laid before the Senate the Tabled and Specially Assigned matter:

An Act to License Dieticians (S.P. 520) (L.D. 1397)

Tabled—May 2, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**ENACTMENT**

(In House, April 30, 1985, **PASSED TO BE ENACTED**.)

(In Senate, April 25, 1985, **PASSED TO BE ENGROSSED**.)

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

Out of Order and Under Suspension of the Rules, the Senate considered the following:

#### COMMITTEE REPORTS

##### Senate

##### Ought Not to Pass

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

Bill "An Act Concerning an Exit Sign on Interstate Route 95 for Kennebec Valley Vocational-Technical Institute" (S.P. 240) (L.D. 634)

##### Ought to Pass As Amended

Senator **BROWN** for the Committee on **EDUCATION** on Resolve, to Address Special

Education Needs of Learning Disabled Children (S.P. 211) (L.D. 569)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-70)**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-70) **READ** and **ADOPTED**.

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

Out of Order and Under Suspension of the Rules, the Senate considered the following:

**SENATE PAPERS**

Bill "An Act Relating to a Support System in the State for Epileptics" (S.P. 548) (Presented by Senator **GILL** of Cumberland) (Cosponsored by: Senator **BUSTIN** of Kennebec, Representative **CHONKO** of Topsham, Representative **NELSON** of Portland)

Which was referred to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** and **ORDERED PRINTED**.

Sent down for concurrence.

On motion by Senator **CHALMERS** of Knox, **ADJOURNED** until Monday, May 6, 1985, at 9 o'clock in the morning.