

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

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STATE OF MAINE
 One Hundred and Twelfth Legislature
 First Regular Session
 JOURNAL OF THE SENATE
 In Senate Chamber
 Thursday,
 June 13, 1985
 Senate called to Order by the President.

Prayer by Reverend Winifred Reynolds,
 Pastor Emeritus of the Windsor Memorial Baptist Church in Windsor.

REVEREND REYNOLDS: Our Lord and Father of all the earth, we would ask Thee to hear us as we come to the beginning of this day of labors. In the words of the old hymn, may we remember that this is my Father's world and though the wrong seems oh so strong. God is the ruler yet.

Help us by Your leading to make this world today a better place in which to live. Be with these men and women who make decisions that concern us all, help them to know that by Your guidance and direction this day that they may know the peace that comes from not being harried and pressured by the demands that are placed upon them. May they know that Your concern is for each one of us and not only those in this place but throughout our great State and even throughout the world. May Your concerns that we know to be righteousness, joy and peace and life eternal bring peace and order in this place upon the earth. May we find these we pray through Jesus Christ our Lord. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Establish an Aroostook County Budget Committee" (S.P. 310) (L.D. 799) (C "A" S-98)

In Senate May 20, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-98).**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-98) AS AMENDED BY HOUSE AMENDMENT "A" (H-396)**, thereto in **NON-CONCURRENCE**.

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

SECOND READERS

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

House

Bill "An Act to Establish a Portion of the Boundary between the Town of Clinton in the County of Kennebec and the Town of Pittsfield in the County of Somerset" (H.P. 1111) (L.D. 1621)

Bill "An Act to Exempt Veterans' Memorial Cemetery Associations from the Maine Sales and Use Tax" (H.P. 748) (L.D. 1071)

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

House As Amended

Bill "An Act Concerning Employment of Certain Individuals in Contact with Children" (H.P. 963) (L.D. 1384) (C "A" H-389)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$6,700,000 for State Facilities Improvements" (H.P. 922) (L.D. 1326) (C "A" H-381)

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

ORDERS OF THE DAY

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

Emergency Resolve

Resolve, Creating a Joint Select Committee on Economic Development (H.P. 74) (L.D. 95) (C "A" H-344)

Tabled—June 12, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—FINAL PASSAGE

(In House June 11, 1985, **FINALLY PASSED.**) (In Senate June 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-344)**, in concurrence.)

On motion by Senator **CLARK** of Cumberland, the Senate **SUSPENDED THE RULES**.

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

On further motion by the same Senator, the Senate **SUSPENDED THE RULES**.

On further motion by the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-344).

On further motion by same Senator, Senate Amendment "A" (S-277) to Committee Amendment "A" (H-344) **READ** and **ADOPTED**.

Committee Amendment "A" (H-344) as Amended by Senate Amendment "A" (S-277) thereto **ADOPTED**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act to Amend the Probate Code to Improve Guardianship and Conservatorship Proceedings (S.P. 218) (L.D. 577) (H "A" H-361 to C "A" S-176)

Tabled—June 12, 1985, by Senator **TRAF-TON** of Androscoggin.

Pending—ENACTMENT

(In House June 12, 1985, **PASSED TO BE ENACTED.**)

(In Senate June 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY HOUSE AMENDMENT "A" (H-361)**, thereto in concurrence.)

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

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

COMMITTEE REPORTS

House

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 Reduce Workers' Compensation Rates for Unarmed Security Guards and Watchmen" (H.P. 331) (L.D. 447)

Ought to Pass As Amended

The Committee on **TAXATION** on Bill "An Act to Exempt Search and Rescue Units from the Sales and Use Tax" (H.P. 1031) (L.D. 1483)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-398)**

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-398)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-398) **READ** and **ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **HUMAN RESOURCES** on Bill "An Act to Encourage the Establishment of Statewide Standards for the Identification and Management of Child Abuse and Neglect" (H.P. 985) (L.D. 1415)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-390)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-390) AS AMENDED BY HOUSE AMENDMENT "A" (H-397)**, thereto.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-390) **READ**. House Amendment "A" (H-397) to Committee Amendment "A" (H-390) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (H-390) as Amended by House Amendment "A" (H-397) thereto **ADOPTED**, in concurrence.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Concerning Liability for Injuries Caused by Drunken Persons" (S.P. 598) (L.D. 1568) (C "A" S-263)

In Senate June 12, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-263)**.

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-263) AS AMENDED BY HOUSE AMENDMENT "A" (H-395)**, thereto in **NON-CONCURRENCE**.

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

House Papers

Bill "An Act Relating to Shares of Stock of Asti-Kim Corporation" (Emergency) (H.P. 1144)

Comes from the House referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS AND COMMERCE** and **ORDERED PRINTED**, in concurrence.

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

COMMUNICATIONS

The Following Communication:

**STATE OF MAINE
 HOUSE OF REPRESENTATIVES
 AUGUSTA 04333**

June 13, 1985

Honorable Joy J. O'Brien

Secretary of the Senate

112th Legislature

Augusta, Maine 04333

Dear Madam Secretary:

House Paper 376, Legislative Document 517, An Act Concerning "Beano" or "Bingo" on Indian Reservations, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the House proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

Eighty-six voted in favor and fifty-two against, and accordingly it was the vote of the House that the Bill not become a law and the veto was sustained.

Sincerely,
 S/ EDWIN H. PERT
 Clerk of the House

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

ORDERS OF THE DAY

On motion by Senator **VIOLETTE** of Aroostook, the Senate removed from the Unassigned Table:

Bill "An Act to Establish Age 21 Years as the Legal Age to Purchase or Consume Alcoholic Beverages and to Deter Drinking and Driving by Minors" (Emergency) (S.P. 332) (L.D. 820) (C "A" S-118; S "A" S-140)

Tabled—May 28, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**PASSAGE TO BE ENGROSSED AS AMENDED.**

(In Senate May 28, 1985, **READ A SECOND TIME.**)

On further motion by same Senator, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator, the Senator **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-118).

On further motion by the same Senator, Senate Amendment "A" (S-261) to Committee Amendment "A" (S-118) **READ.**

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

Senator **TRAFTON:** Thank you Mr. President. Mr. President and Members of the Senate. I would like to pose a question through the Chair to any senator who may care to respond. I would like an explanation as to what this amendment does and how it effects the Bill in its current state.

THE PRESIDENT: The Senator from Androscoggin, Senator Trafton has posed a question to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator **VIOLETTE:** Mr. President and Ladies and Gentlemen of the Senate. This amendment deals with the particular matter before us in an indirect fashion in the sense that we already passed legislation this year that has already gone to the second floor and has been passed and signed into law. This amendment, the result of that legislation having been passed, would prohibit under present law and this particular Bill of which I am not objecting to for particular reasons, raised the drinking age from twenty to twenty-one.

The legislation that was passed earlier would affect either the twenty year old drinking age or the twenty-one year old drinking age. As has been the case for the past fourteen years irrespective of what the drinking age law in Maine was, those who have been eighteen and nineteen years of age have been able to serve in capacity either at the retail level or on premise with respect to the sale of alcoholic beverages. That legislation that was passed would prohibit that practice. All those presently employed in any capacity at the retail level who are below the legal drinking age, whatever that age is, would lose their employment or they would simply not be able to sell it.

This amendment continues the practice which has been the law of the State of Maine for the past fourteen years. It allows those who use to be able to sell at the retail level at ages eighteen and nineteen to continue to do that or to act in a supervisory capacity, in any supervisory capacity. Because of the law that was passed, it means that these people will no longer be able to be in a supervisory capacity and either they shall lose their employment or some other individual will have to be hired who will then have to actually make the transaction and quite frankly, in a small operation, somebody is not going to go out and hire another person inside of a small neighborhood store or inside of a small operation and so it is in that spirit that this amendment is offered to continue what has been the practice here in the ordinary course of business for the last fourteen years. Thank you.

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

Senator **TRAFTON:** Thank you Mr. President. I move Indefinite Postponement of Senate Amendment "A" with the filing number of S-261 and ask for a division and would like to speak to my motion.

I offer you a choice today. Before you, you have two amendments both proposed, one with a filing number of (S-261) and a second with a filing number of (S-264). I have not yet moved for the adoption of Senate Amendment with the filing number of (S-264), but I intend to if in fact the indefinite postponement of this particular amendment is successful.

The Legislature enacted, and the Governor has signed a bill that was known as L.D. 1281 which addressed the problem of people below the drinking age selling liquor illegally in the State of Maine retail stores. The Bureau of Liquor Enforcement testified before the Joint Standing Committee on Legal Affairs that there is a great deal of peer pressure in situations where a person younger than the drinking age is left alone in the retail store to buy liquor, no supervision present and in fact that liquor is sold to an underage person contrary to the law. A substantial number of violations brought to the attention of the Bureau of Liquor Enforcement are in fact sales violations made by a person selling who is under the legal drinking age.

Consequently, a Bill was presented, L.D. 1281, it was heard and unanimously reported ought to pass from the Joint Standing Committee on Legal Affairs, there was no opposition to the bill at hearing, there was no opposition when this Bill passed in this body and was signed by the Governor currently enacted as Public Law 1985, Chapter 133, and it addressed the problem. It simply says that in retail establishments a person of legal age, legal drinking age or older must be present who in fact is selling when they are they younger than the current drinking age.

I suggest to you that the amendment that the good Senator from Aroostook, Senator Violette, proposes today in fact goes in the opposite direction of L.D. 1281, which we have passed. It under goes what we have already done here in this session, but there is another difference in the good senator's amendment and that is the effective date of the twenty-one year old drinking age. As you will recall, the Committee Report recommended a June 1st effective date for the twenty-one year old age. Obviously, today being the 13th of June, that June 1st effective date no longer is realistic. The good Senator, from Aroostook's amendment proposes an August 1st amendment, the amendment that I am proposing proposed a July 1st effective date for the twenty-one year age.

I suggest that Maine is in a relatively precarious position with its two border states, two closest border states, New Hampshire and Massachusetts both having a twenty-one year drinking age which went into effect on June 1st. The Bureau of Liquor enforcement and the State Police indicate that there is in fact a flow of people younger than twenty-one coming into Maine for the purpose of buying and consuming alcohol. I suggest that it is irresponsible for this Legislature to delay the effective date of this measure and I encourage you to indefinitely postpone this particular amendment and opt in favor of the July 1st date.

Moving back to the question that was focused upon by the good Senator from Aroostook, Senator Violette, as to employees having been hired for the summer and then being denied the opportunity to complete their summer employment. There is a possibility that this might occur because of the change of law. I will remind you, however, that this change has been in effect for at least a month, L.D. 1281 was signed by the Governor some time ago, and employees and supervisors have had significant warning of this. I suggest to you the real issue is, are we going to encourage the il-

legal sales of alcohol when we do not have a person of drinking age in supervisory capacity? The amendment that I am proposing clarifies and makes uniform that this supervisor, the supervisor of legal drinking age to be required in both retail stores and in restaurants, taverns where there is on premise consumption of alcohol. I suggest that is a more responsible way to move. The Restaurant Association appears to support this particular measure, the Bureau of Liquor Enforcement indicates that most employers and in fact they provide me with a figure of 98% of licensees wish that there were supervisors of at least drinking age at all the establishments that these licensees run.

You ask me why, however, can't these employers choose to hire older employees or to simply have a supervisor on premise. Well, I suggest to you that the Human Rights Act has a catch twenty-two in it that you cannot discriminate, an employer cannot discriminate in employing minors or any person on account of age unless there is a state law which restricts this type of employment. I am suggesting to you that an employer cannot deny an employee younger than eighteen the right to work in a retail store selling alcohol unless the law limits that availability.

So, I suggest that this state law is available than an employer does not have free choice to how old an employee is in the sale of liquor. That is an area that we must address and I think that we do address adequately in the amendment that I will propose to you after we Indefinitely Postpone the current amendment proposed by the good Senator from Aroostook, Senator Violette.

Off Record Remarks

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

Senator **VIOLETTE:** Mr. President and Ladies and Gentlemen of the Senate. With respect to the issue that the good Senator from Androscoggin, Senator Trafton, has raised relative to the effective date and yes in fact my amendment does address a change in the effective date with respect to raising the legal age at which one can purchase alcoholic beverages.

The change for your information, has been agreed to by the Governor's Office and the Commissioner of Public Safety and in order to provide for period of notification which the Commissioner of Public Safety feels would be more appropriate rather than the legislation becoming effective immediately.

In addition you know what we are talking about here and that the good Senator's amendment will continue, it will not change what was passed and that is that eighteen, nineteen and twenty year old people are simply not going to be able to be supervisors. I have had, I was unaware that the legislation had gone through and I have had a numerous retail owners call me in my district which is a rural district, small store owners who have one person in there and you know, the kind of people we are talking about here are not necessarily college people, these are people who are employed, who are earning their living.

What we are going to do here is that adults are going to be limited in their employment opportunities. People that are earning their living by working in these kinds of businesses are going to be limited in their ability to work and there is absolutely no doubt they are going to lose their employment because of the law. Because when you have got only one person in the store in a small establishment, that owner is not going to bring in somebody else to supervise. It is not going to make economic sense. They are going to have to bring somebody in — if it can only justify having one new person in the store now who is not under the new supervisory age, when by the way that

law goes into effect and I am of the opinion that that was not emergency legislation and that legislation will only become law ninety days after session. I could be wrong, but I am under the opinion that the effective date of the law that was passed was October 1st or ninety days after session.

The effect of that legislation is going to be that if you are not of supervisory age and you are working in that store in small operations all across the State of Maine not just in rural areas but in urban areas as well and the owner of that enterprise is determined that he can only justify one employee in the store at that time, he is not going to bring in another employee who is now going to have to be of the new supervisory age and leave both of those employees there. He is just going to have to get rid of one and that is going to be this particular person whose livelihood is directly dependent on the fact that he can work in that retail outlet, and as we all know, it is a fact of life that many of these operations we are discussing here today sell alcoholic beverages. If that was not the case then that would not be the issue before us, but that is in fact before us.

What we are doing, what we have done is we have limited the ability of adults in this state a working opportunity, we are withdrawing that opportunity from them in many instances. It is easy to say, well you can bring in somebody who is going to be of the new supervisory age, but as we all know when you go to the local mom and pop store you go to a store wherever it is whether it be a rural or urban area and there is only one person working there. You are not going to bring in another person who is over twenty-one and now that two people in the store, you are going to be that individual who is eighteen or nineteen and now twenty. Because when we raise the legal drinking age to twenty-one it is also going to include twenty year old individuals who in those kinds of instances and I will grant you that the good Senator from Androscoggin, Senator Trafton, you know, yes you can bring in an older supervisor, but there are all kinds of instances throughout the State of Maine in all of our districts where that is simply not going to be economically viable or feasible and that means somebody is going to lose their job.

I would suggest to all of you that we are not just talking about college people here, we are talking about the children of the owner of that establishment who are within that age group and we are also talking about people that earn their living this way and that is what my concern is. My concern, quite frankly, was raised after the legislation was passed and a number of small owners of small stores in my area called me up and said Paul, did this really go through? I guess I had to go back and determine that in fact it had and I was told point blank well either you do something or I am going to have to get rid of somebody because I got somebody who is eighteen or nineteen or twenty.

I understand the issue with respect to the problem perhaps of sale. These are minors under the drinking age, that is correct, I understand that, but the legislature has determined, this is nothing new, it has been the case in the State of Maine for the last fourteen years that these individuals within this age group have been allowed, we have allowed them to seek employment in these kinds of instances and work. When the drinking age was twenty this has been the laws, when we moved it from eighteen to twenty, when it was twenty-one before we moved it to eighteen it was the law of the State of Maine and now what we are saying is we are taking this opportunity away from those people.

The Senator has raised a valid concern with this respect that perhaps this is a problem, but there is a liquor enforcement division to deal with that issue. This legislature has gone on

record as keeping that division there in order to enforce the laws of the State of Maine and I would hope, yes, the Senator has a competing amendment, but his competing amendment will not deal with the inequity and quite frankly what I believe is a discriminatory practice that is going to occur because of legislation that we have passed against that particular group of adults who we are going to restrict their capability to work within certain kinds of businesses. Thank you.

THE PRESIDENT: The pending question is the motion of the Senator from Androscoggin, Senator **TRAFTON**, that Senate Amendment "A" (S-241) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator **TRAFTON:** Thank you, Mr. President. Mr. President and Senators — two points. First, I think that the example the good Senator from Aroostook, Senator Violette, paints is a good one, that of ma and pa grocery stores in the rural area who have one employee with not a lot of traffic. Do you want a person younger than the legal drinking age there alone to be put on the spot by one of his classmates, somebody of his age group when that person puts a six-pack on the store counter and says, "come on, it's Saturday night," do you trust the judgment of that eighteen year old? Let me tell you, this legislature has taken a firm position with teenagers drinking and driving. The last session of this legislature enacted the .02 law recognizing that inexperienced drivers cannot deal with alcohol even in small amounts. The Bureau of Liquor Enforcement in their continued enforcement of the liquor laws indicate that this is a problem area, peer pressure affects the judgement of those people selling when those people selling are younger, than the legal drinking age. Think about the peer pressure.

Second point: Think about four more weeks in the middle of summer when people from New Hampshire and Massachusetts and other states, because we have a large influx of other state persons into the State of Maine during the summer, coming to drink in Maine. Is this the time that we want to encourage more young inexperienced drivers to drink and drive in the State of Maine? I don't think so. The month of July, that is what we are talking about. How many teenagers and how many other residents of the State of Maine will die in the State of Maine if we delay this until August 1st? I suggest it is irresponsible to delay. I urge you to Indefinitely Postpone this amendment.

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

Senator **VIOLETTE:** Mr. President and Ladies and Gentlemen of the Senate. I am not going to belabor this much longer. I think the Senator from Androscoggin, Senator Trafton, quite frankly is making this problem that exists and is trying to defeat this amendment with another problem, that isn't going to be solved whether or not this Bill is passed as an emergency. The State of Vermont hasn't passed this Bill, the State of Rhode Island hasn't passed this Bill and I am going to suggest to the Senate another matter and I am concerned about people going from across state lines with respect to the consumption of liquor and the problem that it is in fact going to cause.

You know if that is such a problem, the entire northern part of the State of New Hampshire and practically part of Massachusetts abuts the province of Quebec where it is eighteen years old and my entire Senate district abuts the province of New Brunswick where it is nineteen years old. The state on the other side of Massachusetts and New Hampshire also have not raised their drinking age, the state of Vermont just defeated an increase in the drinking age there, so to me that argument is one quite frankly that does not address the issue before us. The issue before us is whether or not

we are going to take away a right they have had for the last fourteen years. That is the issue here today and I hope you would join me in defeating the motion to Indefinitely Postpone my amendment. Thank you.

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

Senator **DANTON:** Mr. President and Members of the Senate. Not being in tune with liquor measures, I would like to ask a question through the Chair to any member that may wish to answer.

Aren't the drinking laws that have just been passed raising the drinking age in New Hampshire, haven't they grandfathered the twenty year olds? That way it would lessen the border hopping. Why would they have to come to Maine whether our age is twenty-one or twenty if they are grandfather in New Hampshire. Wouldn't they stay there? Could you answer that question please.

THE PRESIDENT: The Senator from York, Senator Danton, has posed a question to any member of the Senate who may respond if they so desire.

The pending question before the Senate is the motion of the Senator from Androscoggin, Senator **TRAFTON**, that Senate Amendment "A" (S-261) be **INDEFINITELY POSTPONED**.

The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Mr. President, I hesitated because I do not have the answer to that particular question, but I would like to address this particular amendment. I would hope that the Senate would support this amendment. I think there has been enough red herrings brought across this Bill to build a fish factory in here and I think all it comes down to is whether or not kids can find some kind of employment in the State and I would suggest to you that although the problem may be more crucial in rural areas where there are limited amounts of jobs, it is also more crucial in urban areas as there are anywhere else.

It seems to me when Senator Trafton said, do you trust the judgement of that eighteen year old. I would say yes I do. Yes, I do, for the most part I do. I think there will be a number of those people within that age group that will make bad judgements, but no more than anyone else. He referred to peer pressure, yes there is peer pressure, there is also pressure from the employer that if you sell something to a minor you are going to lose your job. I think that most young men and women in this State who want a job and sincerely need the money to go on to school or to simply bump their way through life with their husband or wife and children will make a mature decision and I think that everybit of his amendment is all together reasonable and I think that I have a rather good record in voting on Liquor issues as far as being conservative on them. I think this transcends that, this is simply a jobs measure for people who need employment.

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

Senator **DIAMOND:** Thank you Mr. President and members of the Senate. I would just like to pose a question if I could through the Chair to anyone who may be supporting this amendment. The question is other than the debate that has been taking place here, what is the reason for the August 1st implementation versus a more sooner time such as July 1. There has been a good argument made about the eighteen and nineteen year olds, my question is the other part of the amendment that says August 1 will be the date when this becomes effective and why is that appropriate versus a quicker date of July 1?

THE PRESIDENT: The Senator from Cumberland, Senator Diamond, has posed a question through the Chair to any member of the Senate who may respond if they so desire.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator **VIOLETTE**: Mr. President and Ladies and Gentlemen of the Senate. In answer to the good Senator from Cumberland, Senator Diamond's question, seeing as the State of Maine as we have gone by the point where our law would have gone into effect on the same day as New Hampshire and Massachusetts, that issue having been gone by now and in speaking with members of this Body and the Commissioner of Public Safety and the Governor, particularly the Commissioner of Public Safety who supports changing to August 1st in order to provide for a more manageable notification of the general public with respect to the populous of the State of Maine, he in fact supports now that we have gone by the date which I spoke to earlier, in making the legislation only effective on the first of August. This in fact is the Governor's legislation and it supports the recommendation of the Commissioner of Public Safety and that is the reason why it appears in this amendment. We are accommodating the request of, so to speak, the Commissioner of Public Safety. Thank you.

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

Senator **BALDACCI**: Mr. President and Members of the Senate. In listening to the debate this morning I can agree with Senator Trafton and I can agree with Senator Violette and I can agree with the good Senator from Windham, Senator Diamond.

I think there are good points for making it for July 1st and I think the good Senator from Aroostook, Senator Violette has raised some good concerns about the implementation of the particular laws as far as their serving of it. It is very controversial, but I hate to see the Senate get all divided up on that and I would suggest that if it was popular among the Senate that I would be moving to table this item until later so an amendment can be drafted that would put the implementation of the amendment offered by the good Senator from Aroostook to July 1st and try to offer that to the Senate. I think the implementation makes sense of July 1st seeing Massachusetts and New Hampshire with that already in place.

On motion by Senator **VIOLETTE** of Aroostook, Tabled until Later in Today's Session, pending motion of Senator **TRAFTON** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-261)

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following: An Act Relating to Cumberland County Budget Process (S.P. 618) (L.D. 1629) (H "B" H-382; C "A" S-237)

An Act to Amend the Reapportionment Law (S.P. 619) (L.D. 1630) (H "A" H-377)

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 Create a Cause of Action Against the State for Wrongful Imprisonment (H.P. 171) (L.D. 205) (C "A" H-387)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**.

Bill "An Act to Provide for State Research Grants" (H.P. 707) (L.D. 1017) (S "A" S-268 to C "A" H-297)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**.

An Act to Improve the Administration of General Assistance (H.P. 916) (L.D. 1309) (C "A" H-384)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**.

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

ENACTORS

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

An Act to Require the State to Comply with Municipal Ordinances Governing the Construction of Buildings (S.P. 185) (L.D. 503) (S "B" S-227 to C "A" S-123)

An Act to Reform the Law Relating to Farm Equipment Sales Tax Exemption (S.P. 187) (L.D. 505)

An Act to Amend Certain Sex Crimes Under the Maine Criminal Code (S.P. 525) (L.D. 1408) (C "A" S-267)

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

Resolve

Resolve, Authorizing Colwell Construction Company Incorporated, to Bring a Civil Action Against the State of Maine (S.P. 550) (L.D. 1467) (C "A" S-242)

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

Senate At Ease

Senate called to Order by the President.

Emergency

An Act to Amend Certain Motor Vehicle Laws (S.P. 605) (L.D. 1599) (H "A" H-379; S "A" S-200)

On motion by Senator **ERWIN** of Oxford, placed on the **SPECIAL HIGHWAY APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED**.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Allow the Department of Human Services to Investigate and Provide Information on Community Health Issues" (S.P. 535) (L.D. 1436)

In Senate June 11, 1985, **PASSED TO BE ENGROSSED**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-393)** in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**. On motion by Senator **GILL** of Cumberland, the Senate **RECONSIDERED** its action whereby it **RECEDED** and **CONCURRED**.

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

Senator **GILL**: Mr. President, I request a Division on the motion to Recede and Concur.

THE PRESIDENT: The Senator from Cumberland, Senator Gill requests a Division on the motion to **RECEDE** and **CONCUR**.

On motion by Senator **VIOLETTE** of Aroostook, Tabled until Later in Today's Session, pending the motion to **RECEDE** and **CONCUR** (Division Requested.)

Enactors

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

An Act Relating to the Authority of Medical Service Organizations and Nonprofit Hospitals to make Incidental Indemnity Payments (H.P. 1129) (L.D. 1636)

Comes from the House Bill and Accompanying Papers **COMMITTED** to the Committee on **TAXATION**.

Senate At Ease

Senate called to Order by the President.

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **PASSAGE TO BE ENACTED** in **NON-CONCURRENCE**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

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

ENACTORS

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

An Act to Amend the Offenses for Operating under the Influence (S.P. 562) (L.D. 1491) (H "A" H-386; C "A" S-260)

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

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

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **CHALMERS** for the Committee on **JUDICIARY** on Bill "An Act Concerning Access to Medical Records by Prosecutors" (Emergency) (S.P. 566) (L.D. 1494)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-280)**.

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

Committee Amendment "A" (S-280) **READ** and **ADOPTED**.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

Senator **KANY** of Kennebec was granted unanimous consent to address the Senate Off the Record.

Senate At Ease

Senate called to Order by the President.

ORDERS OF THE DAY

On motion by Senator **VIOLETTE** of Aroostook, the Senate removed from the Later Today Assigned Table:

Bill "An Act to Allow the Department of Human Services to Investigate and Provide Information on Community Health Issues" (S.P. 535) (L.D. 1436)

Tabled—June 13, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—the motion to **RECEDE** and **CONCUR** (Division Requested)

(In Senate June 12, 1985, **RECONSIDERED** the motion to **RECEDE** and **CONCUR**.)

(In House June 13, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-393)**, in **NON-CONCURRENCE**.)

THE PRESIDENT: The pending question before the Senate is the motion to **RECEDE** and **CONCUR**. A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND**: Thank you Mr. President. I am just scurrying through my waste basket, trying to find Supplement -7. Would you mind explaining what the Recede and Concur will do.

THE PRESIDENT: In response to the Senator from Cumberland, Senator Diamond's request, the Bill is: "An Act to Allow the Department of Human Services to Investigate and Provide Information on Community Health Issues." (S.P. 535) (L.D. 1436)

It comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-393) in NON-CONCURRENCE.**

To Recede and Concur would adopt the House Amendment. The Senate earlier had Passed the Bill to be Engrossed without the House Amendment.

The pending question before the Senate is the motion to **RECEDE and CONCUR.** A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator **ANDREWS:** Thank you Mr. President. Mr. President and Men and Women of the Senate. I hope that you do vote to recede and concur. The amendment that was placed on in the House simply makes a technical change to the Bill and it adds a fiscal note. Thank you.

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

Senator **GILL:** Mr. President and Members of the Senate. I would urge you to vote against the motion to recede and concur with the House. This Bill will allow every person in the State of Maine to have the information available from the Department about what materials might exist in their community.

We as a Legislature have passed legislation this year to allow municipal officials, people who should have specific knowledge of what is going on in the State so they may correct it, we have in L.D. 1382 the availability of information relating to hazardous waste which has been submitted to the Department to be shared with employees of the municipality in which the hazardous waste is located and the fire departments, the police departments of the State of Maine may do something about it.

If we do defeat this motion, I would move Indefinite Postponement of this Bill because I think it is an opportunity to set something in place that is just going to snowball. I think it is appropriate that certain people have the availability of information, but we all know that if we put a hot line, if we put a clearing house in place, we have no idea how many people of the over a million population we have in the State that will access that. I would suspect it would be a high number and once you put something in place you can't retract it and it only means further expansion.

I have no problem with the bills that we have passed this session, I think that the information will go to the proper people and other people in the community can access that information through the proper channels. I see no need for a clearinghouse for the population, the whole population of the State to access.

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 oppose the motion to recede and concur and probably go along with the motion from the good Senator from Cumberland, Senator Gill. This is a duplication of the legislation that we passed out in Energy and Natural Resources, which was 1382, which concerned municipal regulations of hazardous waste. The intent is almost in duplicate.

I can relate to my community in their past year two events have happened, one was the big fire that Agway had in my community and it had a lot of chemicals involved and the fire department handled the whole situation very good, there were so many chemicals that we felt that only the professional people should know about this information. We didn't feel that everyone in the community should have the right to constantly call and find out what different types of things were there. The thing

was handled very well. Another one in regards to a firm in an industrial park involved taking people to the hospital and involved blocking off the area and the professional people again, handled this very professionally and took care of the whole matter. Those are the people who should know about all of these things and have the records of all this information.

We feel that one piece of legislation that covers the whole area would be enough.

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

Senator **BERUBE:** Thank you Mr. President and Fellow Senators. Both Senator Usher and Senator Gill are correct. There was indeed legislation passed earlier this session, but one thing they have neglected to say is that this information should be treated as confidential by municipal officers — which tells me that if there is a hazardous chemical in your neighborhood, your municipal officers would know, but you are a citizen who wants to know what is next door to you to protect yourself and your family, your children, would be unaware of what the chemical is. Knowledge of this means simply that you would be able to protect yourself, to guard yourself against the danger of such a chemical, the knowledge of a chemical would also help a physician who is treating you for a symptom, a skin rash or whatever the symptom might be. If they are aware of what the chemical is, the hazardous material is, should say, they would be able to treat, but if they are in the dark they will not know how to treat you.

Basically both pieces of legislation are similar, at least the one that is before you that you are asking to recede and concur to is the one that really helps the citizens of our State and I don't really believe there would be abuse, I don't believe that one million people would get on the phone and call haphazardly, I don't think people do that. Thank you.

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

Senator **TUTTLE:** Mr. President and Members of the Senate. I, having been a former fire fighter and emergency medical technician and having dealt with these situations first hand, would hope that you would recede and concur on this motion. I think that the issue of what chemicals are involved with the public is something that should be out there, the people should know. I know myself that being involved in situations with chemical fires, I was shocked sometimes to find out what we are dealing with. I think it is only appropriate that the public have that same access.

I hope that you will vote to recede and concur.

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

Senator **ANDREWS:** Thank you Mr. President. Mr. President, Men and Women of the Senate. I'd just like to echo the comments this morning made particularly by the good Senator from Androscoggin, Senator Berube, about this particular piece of Legislation

Many of the people of this Senate were involved in passage of the cancer incidents registry, we passed that bill a few years ago. We received on our desks this year a report from the cancer incidents registry identifying incidents of cancer around the state, different types of cancers and in some of those areas of the State, perhaps in your area, there were perhaps a larger incidents of a particular type of cancer in your area and perhaps you were concerned about those cancers in your area and perhaps you were concerned about those cancers, perhaps your citizens were concerned about those cancers. If they were concerned about those cancers they might also be concerned about what kind of toxic or hazardous chemicals are being used in or near their community and they may want to think about or look at or have looked at the issue or the question of whether or not there may be a rela-

tionship between a high instance of leukemia for example and perhaps some kind of hazardous or toxic chemical going on in their area.

It is very important for you to understand that some of the information you have heard in this debate is not accurate, in fact people cannot get access to information through proper channels as the laws are right now. They cannot have access even if they go through the proper channels. The proper channels we have established up to this point specifically prohibits the citizens, your constituents and mine from having access to that information. They can go to their municipal officials, their municipal officials may have that information but their municipal officials cannot disclose that information to them.

I hope that you will look at L.D. 1436, if you do you'll also see another portion of the Bill that is yet to be discussed in this debate, namely Section Four calling for an emergency response study. You know, when the emergency that occurred in Westbrook which we have heard about in this debate happened, I had a chance to talk to the Bureau of Health and the Environmental Health Unit and I asked them about this particular instance and asked a general question. Since this particular situation was handled fairly well, are we prepared across the State to handle similar situations? In this particular case there was a fire at a chemical company and if the firefighters had fought that fire in the conventional way, there would have been a major disaster in Westbrook and the surrounding areas. As it turns out, the people in that plant had given that information to the authorities in Westbrook and there was no problem. I asked if there was a systematic way State-wide for that information to be disseminated and coordinated and if the Environmental Health Unit or the Bureau of Health was involved in providing the information and helping with the coordination about health information that might be critical in a time of emergency. The answer was no, we don't have the kind of response capacity, we don't have that emergency system in place, we don't have that coordination. There is very little communication, the right hand often times does not know what the left hand is doing when it comes to these kind of emergencies and the State's involvement in them. He says, you know, I think we need a fresh look at all this and I think that everyone having to do with emergency situations should sit down, study it and come up with a comprehensive plan to approach emergencies in the State of Maine. That is why this particular provision is in this Bill calling for that study and having a report made back to the Legislature.

You know, I really don't understand what we are afraid of when we say we don't want to give our constituents information that might be of importance to them and their families. There are certain countries in the world that believe that bureaucrats and officials know best and the less the public knows, the better. Well, in this country we have a different idea, the government works for the people. I would just encourage those people who believe their constituents can't be trusted or aren't responsible enough to hear or listen or receive that information to go to their constituents and tell them that. Particularly if you live in Hope, particularly if you live in Gray, particularly if you live in areas in which public officials were aware of toxic or hazardous chemicals in or near their communities and in fact did not provide that information. Only later did we find out those citizens were living on top of a very dangerous situation that in fact caused catastrophic problems to their health and the health of their children.

We had some very dramatic and important testimony before the Human Resources Committee from individuals talking about their own personal experiences when they were living right near a situation where there was

hazardous and toxic chemicals and there is evidence to suggest that those chemicals had a direct impact on their families health. They said that if we at least had known about it, maybe we would have decided not to do anything, maybe we would have decided to take the risk and stay there, but they didn't even have that choice because they didn't know they were living in such a situation. You would have to be very naive to think that everything is fine and dandy around the State with respect to hazardous waste and chemicals.

We have got to deal with this situation responsibly and we have got to deal with this situation directly, but we can only do that if we allow our citizens the right to know of the existence of those hazardous chemicals in or near their communities. Their health is at stake, their safety is at stake, it is the very least we can do and I really genuinely cannot understand the big brother attitude that some of us take with respect to the kinds of information that we give to our constituents.

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

Senator GILL: Mr. President. The Bill that was passed this Session, 1382, does in fact allow once the municipal official has that information anyone can ask that municipal official, they can make a request of that particular municipality. The municipality in turn is to send that request to the Department of Human Services Health Planning or Public Health. At that point they will make the decisions whether and I will read from the Bill "*the Commission may grant or deny disclosure of the whole or any part of the designated information requested and within fifteen days shall given written notice of his decision on that matter*" so that information is available if someone requests it. If we pass this Bill that is presently before us, L.D. 1436, we will allow a citizen in Kittery, Maine to call and request information on something that is happening up in Blue Hill or Madawaska or any part of the State and they in fact with that information it will not help them in emergency planning, it is not going to help them in workplace safety. What reason would they have to do it when the municipal officials from that particular municipality knows full well what is available there.

I just feel that we have heard about the McKin site, we have heard about problems that exist and we have to remember, and it is important to remember, that both the sites that we operating that we have had in the State of Maine were operating in fact outside the law. We have done a lot in the Legislature to correct those matters. We have the Department of Labor who now has information on most of the materials around that could be considered hazardous in fact in the workplace. That information is available, so I would ask you please to vote against the motion to recede and concur and get rid of this Bill.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube. Senator BERUBE: Thank you Mr. President. Of all people I certainly don't want to be on opposite sides of Senator Gill, a person whom I greatly respect, however, I think in this issue she is not too correct.

She has read and correctly from L.D. 1382 which by the way is not the L.D. before us I would remind you, but she neglected to add another section which says that "*all information submitted to the municipality under this subsection shall be confidential and shall not be public record.*" It is fine for municipal officials, the fire department for instance to be aware of certain dangerous materials in their community, if there is like a fire that was mentioned previously, but how about the residents of neighborhoods, the people who suddenly find their children have a rash on their body, they don't know what the chemical is, the doctor doesn't know what the chemical it is and

doesn't know how to treat. This way they could have a source where they would call and the department would allay their fears, certainly there was no cause for concern.

But by the same token it allows the citizen the right to know and I of all people shouldn't be using that term right now, but by the same token every citizen is entitled to know what chemical is around their neighborhood so they can know what the symptoms are and again I will state that I doubt very much that the people of this State would be calling twenty-four hours a day on a hot line, only when there is a cause for concern. Thank you.

Off Record Remarks

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

Senator GILL: Mr. President. The good Senator from Androscoggin, Senator Berube, brought up a point about if children in a particular neighborhood have a rash the parents would have some way to find out whether there was something in fact. If my child has a rash I am going to take my child to my physician to say to the physician how come this kid has got a rash. I am not going to call a line or a clearinghouse and say, "my kid has a rash, what is going on in the area?" I will take it to the physician, the physician has the availability, he can find out if there is something. The Chemical I.D. Law does in fact allow physicians upon request to have the information disclosed to them. We already have a Bureau of Health and they are charged with the public health of the citizens of the State of Maine in health and safety matters. So those things do exist.

I think there is a process we go through to do things and I think that the process we have attempted to address through legislation in this session and in the last session of the Legislature has done a lot and come a long way in something that didn't exist before and I am just afraid. We talked about a pendulum swing yesterday on another matter and I am just afraid that pendulum swing is going from one end to the other and I think we ought to stop and see how these laws are working that we got on the books right now before we open it so wide that we are not going to be able to retract. We are going to cause more harm I am afraid.

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

Senator MATTHEWS: Mr. President would the Secretary read the Committee Report. Which Report was READ.

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

Senator MATTHEWS: Mr. President, I would urge the Members of this Body to pass this Bill and the comments on the floor of the Senate remind me of some earlier discussion that we had as members of the Audit and Program Review Committee under the Chairmanship of the Senator from Cumberland, Senator Diamond, and Senator Maybury. One of the concerns that we listen to on the problem of underground oil contamination was something that I remembered in the middle of this debate.

We had a gentlemen come down from Aroostook County that had some children that unfortunately had been getting sick from apparently an oil spill and this gentlemen went to his municipality, got no help from his municipality, went to others that he thought could help him and got no help there, didn't know where to turn. It seems to me that this issue goes to the heart of what democracy is all about and I would suspect is information that should be public information that should be public information and I don't think you will see a whole rash of people inundating any department to find out about some chemicals or toxic substances away from them. I do think you will find that people who live in their areas will want to know what chemicals are being

used around their children, around their families, their friends and I think that is information that the citizenry of the State has every right to ask.

Don't make anymore hoops, especially bureaucratic hoops for people to jump through to find out what is going on and what chemicals and substances may be used in their neighborhoods. I would urge you very strongly to pass this Bill.

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

Senator DIAMOND: Thank you Mr. President, Members of the Senate. I support this Bill and I hope that we will recede and concur. Let me take you back to Gray, Maine, East Gray, Maine, McKin site, 1973 when they started having difficulties there health-wise, individuals did, and no one would acknowledge that and there was no clearinghouse as this Bill will propose or does propose. So they went on their way and struggled as much as they could to bring this to the attention to as many people as they could not knowing what they were dealing with.

In 1975 we started having some real serious physical problems there, but no one knew why. Some people had some suspects, but there was no where to go, no clearinghouse, nothing to go through to deal with this problem. In 1978 and after three years of total frustration, a loss of health and in some cases expected loss of life and certainly a concern about devalued property and all that goes with that. Finally there was some realization, yes, there are some chemicals around there that should be investigated, no place to go. That is five years after the first problem showed. In 1980 finally the State said yes, you have a problem there — seven years later. Had we had some Bill like this and in fact if we still did, this time if it happens in Augusta where there is a hazardous waste site, or if it is Buckfield or whether it is Gray or anywhere around the State, there are seven of them, we need this kind of legislation to help those people. Nobody should go through what the citizens of Gray had to go through. No one.

If this Bill helps any one community or any one family or any one small neighborhood, then by golly we should have it. We should not hesitate. In reference to the McKin site when someone said those were illegal anyway and so this is not applicable, it is not true. Those wastes were permitted. They were being dumped there by permit and it wasn't illegal and so that can happen in any one of seven sites we have now identified or any other site we have not yet identified.

I think that if this Bill can help just one community, then I think we ought to go with it even if it does suggest cumbersome added bureaucracy, I'm not sure that it does. I think that when you weigh the two out you are talking about lives and health of children and unborn children and that is very, very important. Thank you very much.

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

Senator BALDACC: Mr. President. I realize there is a tremendous amount of support for this type of measure. I think that it is wise not to get caught up into this theory about a particular situation that is totally unrelated to this particular measure.

I share the concerns of the membership, but I would think sometimes what good is it to know that a building or a firm has sulfuric acid or magnesium. Even though together they can explode, they may not be placed in the building in the same place, but they will be listed together. What good is that information unless you have the fire departments or police departments or civil emergency preparedness to go to the site, review it, check to see where the extinguishers are, see where the exhaust fans are? Because we are dissatisfied with what is going on at the local level in unresponsiveness,

the big brother we are talking about here today in trying to implement isn't the firms or the community's businesses, it is the fact that we want the State to step in and all of the sudden coordinate it because we are dissatisfied with what is going on at the local level.

The good Senator from Cumberland, Senator Diamond, refers to the McKin Site. If this Bill were passed as it is and that did happen as it did, it would not have effected it. The McKin Site was an unlicensed site. What we are dealing with are not unlicensed sites, those would not be listed, that would not have been prevented. I think what bothers me most is that when we are frustrated at the local government, we always come up here to the State Government and we are going to pass a law because there is a problem in an area and we are going to pass a law that is going to be for everybody. Everybody, whether you need it or not because it is going to resolve that problem. I see that happening more and more and I don't like to see that because I think we have to start to resolve those conflicts rather than using the broad brush of the State.

I want people to know, I want them to be knowledgeable in their government. We are representing them, we are their public servants. We hire a police department, we hire a city manager, we hire a fire department, if they are not doing their job that is where the problem is, if they are not responsive enough that is where it should be focused at. It shouldn't be focused here, it really shouldn't be. There is a problem, let the community work together, let's provide them the enabling legislation to be able to do it at their particular level.

Mr. President I will be supporting the motion to recede and concur.

THE PRESIDENT: The pending question is the motion to **RECEDE** and **CONCUR**. A Division has been requested.

Will all those Senators in favor of the motion to **RECEDE** and **CONCUR**, please rise in their places until counted.

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

Senator **KANY:** Thank you Mr. President and Senators. I just wanted to point out that some people believe that government is taking care of us, government is taking care of our toxic air emissions. But that is not the case. It is interesting that the United States Environmental Protection Agency only regulates four toxic air emissions. It is unbelievable. I think people would really be surprised if they understood that we are simply not regulating them. Particulates, mass particulates are now being regulated but not the hazardous substance that is emitted from a smokestack.

In answer to the good Senator from Penobscot, Senator Baldacci, I cannot understand why an individual shouldn't have information about the toxic substances that are within that community because then the individual could make that decision if they wanted to stay in that home, if they wanted to sell it and move away or if they wanted to have their child play on a playground in a certain area. I don't think that is unreasonable.

The good Senator from Cumberland, Senator Gill, mentioned the Chemical Substances Identification Act and the development of it last year and I do think we did do a fairly good job, but we didn't go far enough, we didn't go as far as allowing individuals to really know about the substances with which they must live. Really, I think it is kind of arrogant for government, for those of us in government either at the State level or even at the municipal level to think that we know everything and that the individual cannot make a choice for themselves. I think all this Bill is asking is that individuals get that information so they can make choices in their lives about things which would affect them. I don't think that is an unreasonable request to have been made by those who sponsored this.

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

Senator **WEBSTER:** Mr. President. May I pose a question through the Chair? Mr. President, Ladies and Gentlemen of the Senate. I have listened to the debate here this morning and I am a little bit confused in one area and that is, the good Senator from Kennebec, Senator Kany, just mentioned and it had been mentioned by other members of this Body, that if an individual wanted the information they could call and request it. I am wondering whether the arguments gave by the good Senator from Cumberland, Senator Gill, are true in that if someone wanted to know what was happening in an area completely away from their homes, such as calling up and finding out what is going on in Eagle Lake which might not be any interest to me, whether that could happen under this law or whether we are going to say you can only call if you live in the immediate area.

I would like to have somebody respond to this.

THE PRESIDENT: The Senator from Franklin, Senator Webster, has posed a question through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator **BALDACC:** Mr. President and Members of the Senate. I had said to go along with recede and concur much earlier and I want to make sure it is very clear that I will be supporting against that motion to recede and concur and moving to indefinitely postpone this Bill and all accompanying papers. Thank you Mr. President.

THE PRESIDENT: Did the Chair understand that the Senator from Penobscot, Senator Baldacci, was making a motion to Indefinitely Postpone?

The Chair would inform the Senator that the motion is not proper at this time.

The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator **ANDREWS:** Thank you Mr. President. Mr. President and Men and Women of the Senate. There is a process that has been established by this piece of Legislation to provide the public with the information that they may want about the existence of hazardous or toxic chemicals in or near their communities and it is fairly well laid out.

I would like to just simply respond to two points that were made today in this debate. First of all, the question of the good Senator from Penobscot, Senator Baldacci, as to what good is this information for individuals, that this really is a matter for public officials and if they are not doing their job we can simply replace them. In fact, if individuals did not have access to this information, how are they going to know whether or not their public official is doing his or her job or not. The only way they will probably know is if there is disaster or if there is some major problem that is created and then they can look in hindsight and see whether or not the public officials were doing what they were doing. This Bill is simply allows those individuals access to that information.

The vehicle that is being used through this Bill to provide individuals with that information is the Bureau of Health and the Environmental Health Unit that as the good Senator from Cumberland, Senator Gill explained, we have set up that environment health unit, we have established the Bureau of Health and yes we have established them to do this type of thing. The only problem is they can't do this type of thing under existing law and just so that everybody is clear, this piece of Legislation is not a frivolous bill. I sat down with officials from the Environmental Health Unit, officials from the Bureau of Health, we worked on this for months, this Bill has undergone extensive study by them and

the Bureau of Health strongly supports this Legislation and feels that it is necessary in order for them to do their job that we ask them to do. Thank you.

Senator **GILL** of Cumberland requested and received Leave of the Senate to speak a fourth time.

Senator **GILL:** Thank you Mr. President. Mr. President I would like to respond to a question that was raised from my good colleague. Anyone in the State of Maine can call about any place in the State of Maine. There is no restriction in the Bill that would disallow that.

And again, I would just like to reaffirm that information can be available through the channels of approaching a municipal official under a bill that we have already passed through this Legislature. That request is made to the municipal officials, that request is then forwarded to the proper department of the State of Maine to reply to the individual that has made the request. People aren't going to be in the dark in the State of Maine, that information will be available to them under those circumstances.

THE PRESIDENT: The pending question before the Senate is the motion to **RECEDE** and **CONCUR**. A Division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Mr. President, I request a Roll Call.

THE PRESIDENT: The Senator from Cumberland, Senator Diamond, has requested a Roll Call. 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 in order.

The Chair recognizes the Senator from Cumberland, Senator Diamond.

Senator **DIAMOND:** Mr. President. In further answer to the question from the good Senator from Franklin, Senator Webster, that is indeed true that one could call from Auburn or Machias to check on the chemicals that are used, but that is necessary. In a lot of cases as it was in Gray we had elderly people that were there and they really had no direction to go in, but their families certainly did not to prohibit anyone outside the community from having that freedom to make the call or make the inquiry would just be cutting the legs out from beneath this legislation. It's very, very important.

You have to remember that indeed back with the McKin Site and as I say it could happen in Buckfield or in Augusta or anywhere else, the problem there is that the Department of Environmental Protection ignored and would not cooperate for six years. That is very, very critical time and this kind of legislation, by the way the McKin Site was permitted for those wastes, was permitted, which means they were not violating the law, they were permitted to have those wastes there just as they could have the wastes in your community.

I think we need the freedom to have those folks outside a community to make the call because of elderly and other reasons and I think we also have to remember that in all cases people are not going to cooperate unless we make them. Thank you.

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

Senator **BALDACC:** Mr. President and Members of the Senate. I am not going to debate about the McKin Site whether it was licensed or unlicensed or permitted or not permitted.

The fact of the matter is we are talking about making a state law for everybody from Van Buren to Kittery. When we are thinking about doing that, what about all the military installa-

tions we have in the State, Loring Air Force Base, Bangor's Back-Scatter. Ninety-five percent of all the nuclear waste in this country is generated by the Defense Department. Ninety-five percent of it, five percent is generated by the commercial reactors that we hear about whether, it is at Shorham or Seabrook (it's not generating yet), but any of those that are generating, five percent. Is this going to allow the community military information as to what is on those particular sites? I submit no. I stand to be corrected, but I submit it is not going to be able to hit at that problem and I think rather than trying to address a particular concern in a state law that we ought to be trying to work with the local communities in regional commissions to give them the tools to work with so they can develop effective responses to potentially hazardous situations.

That is where I am coming from. It may not be in the majority, but I think it is sound, reasonable policy for the state. Thank you.

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

Senator **MATTHEWS:** Mr. President and Members of the Senate. I will be very brief, but I feel I must respond to the good Senator from Penobscot.

I guess that he is advocating some kind of local control bill on this measure and that just surprises me a great deal and I just wondered if he had explained that. I guess that he would advocate that one town pass this kind of legislation for its municipality and the next neighboring town not do so, not allow public information and the next town allow that information and the next town not allow that information. I would submit to the members of the Senate, this sounds like an issue that should be done by the State and obviously it should be done by the Federal Government too, but it seems to me with respect to environmental concerns we have been waiting a while for the Federal Government to do very much and the E.P.A., but we can do things on a state level here in the State of Maine and this is well within the scope of state involvement, well within the scope.

THE PRESIDENT: The pending question is the motion to **RECEDE** and **CONCUR**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion to **RECEDE** and **CONCUR**.

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, Carpenter, Chalmers, Clark, Diamond, Dow, Gauvreau, Kany, Matthews, Pearson, Trafton, Tuttle, Violette, Webster, The President — Charles P. Pray

NAYS:—Senators, Baldacci, Black, Danton, Dutremble, Emerson, Erwin, Gill, Hichens, Maybury, McBreairey, Perkins, Sewall, Shute, Stover, Twitchell, Usher

ABSENT:—Senator Najarian

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion to **RECEDE** and **CONCUR**, **PREVAILS**.

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

Senator **WEBSTER:** Mr. President, having voted on the prevailing side, I move reconsideration on L.D. 1436.

THE PRESIDENT: The Chair would inform the Senator from Franklin, Senator Webster, that his motion would not be proper. The motion to Reconsider this had already taken place. The Senator from Cumberland, Senator Gill, had moved Reconsideration whereby the Senate had Receded and Concurred.

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** A parliamentary inquiry. Would it be appropriate — I am con-

cerned in regards to the question I asked about the jurisdiction of where someone could call from, I would like to see that amended to address that.

THE PRESIDENT: The Chair would inform the Senator from Franklin, Senator Webster, to see me as soon as the Senate recesses.

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** My question, Mr. President, is since I voted on the prevailing side, I don't want this Bill sent forthwith until I know the correct parliamentary procedure.

THE PRESIDENT: The Chair would inform the Senator that the proposal is no longer before the Body since the motion to Reconsider had already taken place. The Bill has been sent to Engrossing.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Senator **CLARK** of Cumberland was granted unanimous consent to address the Senate Off the Record.

On motion by Senator **PEARSON** of Penobscot, **RECESSED** until 4 o'clock this afternoon.

After Recess

Senate called to Order by the President.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Initiate Agricultural Technology Transfer and Special Project Programs" (H.P. 452) (L.D. 725)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-400)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-400)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-400) **READ** and **ADOPTED**, in concurrence.

Which was under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **TAXATION** on Bill "An Act to Change the Sales Tax Exemption for Property Purchased Outside the State" (H.P. 24) (L.D. 22)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-401)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-401)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-401) **READ** and **ADOPTED**, in concurrence.

Which was under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **TWITCHELL** for the Committee on **TAXATION** on Bill "An Act to Modify Inequitable Income Eligibility Guidelines in the Elderly Householders Tax and Rent Refund Act

and to Increase Income Eligibility to Conform with Other Federally Established Poverty Levels" (S.P. 85) (L.D. 266)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-281)**

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

Committee Amendment "A" (S-281) **READ** and **ADOPTED**.

The Bill as Amended **ASSIGNED FOR SECOND READING LATER IN TODAY'S SESSION**.

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

COMMUNICATIONS

The Following Communication:

COMMITTEE ON LOCAL AND COUNTY GOVERNMENT 112th LEGISLATURE

June 13, 1985

The Honorable Charles P. Pray
President of the Senate
112th Legislature
Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Local & County Government during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	61
Unanimous reports	50
Leave to Withdraw	11
Ought to Pass	10
Ought Not to Pass	6
Ought to Pass as Amended	17
Ought to Pass in New Draft	6

Divided reports	9
County Budgets	16
Carry Over Bills (Approved by the Legislative Council)	2

Respectfully submitted,

S/ JOHN L. TUTTLE
Senate Chair

S/ EDWARD A. MCHENRY
House Chair

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

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

COMMUNICATIONS

The Following Communication: JOINT SELECT COMMITTEE ON ALCOHOLISM SERVICES 112th LEGISLATURE

June 6, 1985

The Honorable Charles P. Pray
President of the Senate
112th Legislature
Dear President Pray:

We are pleased to report that all business which was placed before the Joint Select Committee on Alcoholism during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	3
Unanimous reports	3
Leave to Withdraw	1
Ought to Pass	1
Ought Not to Pass	0
Ought to Pass as Amended	2
Ought to Pass in New Draft	0

Divided reports	0
County Budgets	16
Carry Over Bills (Approved by the Legislative Council)	0

Respectfully submitted,

S/ THOMAS H. ANDREWS
Senate Chair

S/ ALFRED L. BRODEUR
House Chair

Which was **READ** and **ORDERED PLACED**

ON FILE.

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

SECOND READERS

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

House As Amended

Bill "An Act to Encourage the Establishment of Statewide Standards for the Identification and Management of Child Abuse and Neglect" (H.P. 985) (L.D. 1415) (H "A" H-397 to C "A" H-390)

Bill "An Act to Exempt Search and Rescue Units from the Sales and Use Tax" (H.P. 1031) (L.D. 1483) (C "A" H-398)

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

Senate As Amended

Bill "An Act Concerning Access to Medical Records by Prosecutors" (Emergency) (S.P. 566) (L.D. 1494) (C "A" S-280)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**. Sent down for concurrence.

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

COMMUNICATIONS

The Following Communication:

COMMITTEE ON HUMAN RESOURCES**112th LEGISLATURE**

June 13, 1985

The Honorable Charles P. Pray

President of the Senate

112th Legislature

Dear President Pray:

We are pleased to report that all business which was placed before the Committee on Human Resources during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	91
Unanimous reports	72
Leave to Withdraw	24
Ought to Pass	12
Ought Not to Pass	0
Ought to Pass as Amended	28
Ought to Pass in New Draft	8
Divided reports	15
Carry Over Bills	
(Approved by the Legislative Council)	4

Respectfully submitted,

S/ GEORGETTE B. BERUBE

Senate Chair

S/ MERLE NELSON

House Chair

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

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

ENACTORS

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

Emergency

An Act to Improve the Workers' Compensation System and Reform the Rate-making Process (H.P. 1127) (L.D. 1634) (H "C" H-394)

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate. What we are proposing to do on this particular Bill is out of the ordinary for most bills, we are proposing to pass this Bill with its funding without going to the Table. I want you to be aware of that. The cost on this particular Bill is somewhere around \$801,823 the first year, \$566,313 the second year. I have just completed a meeting with all the members of the Appropriations Committee and with one abstention because of a possible conflict, everybody was in favor of doing so.

THE PRESIDENT: The pending question

before the Senate is **ENACTMENT.**

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** I request a Roll Call.

THE PRESIDENT: The Senator from Kennebec, Senator Bustin, has requested a Roll Call. 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 in order.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. Gosh knows the last thing I wanted to talk about today was workers comp, but I am not going to talk about it except to say that my concerns that I expressed yesterday still hold. Therefore, I truly have given it a lot of thought and I have talked with the Senator from York, Senator Dutremble, and other people and didn't know until just a few minutes ago exactly how I was going to vote on the final enactment.

I think there are some good things in the Bill. I think that the direction the Committee proposes to go, vis-a-vis, the medical and that was the only hang up I knew I had at the beginning, and Senator Dutremble and I have talked about that and I feel comfortable with that particular section of it.

Given what developed yesterday and the concerns that were expressed on the floor yesterday, however, I think that because of what is in the Bill and the other things that went in yesterday or were not deleted yesterday I guess I should say, I don't feel I can vote for this Bill. However, voting against the Bill puts me in another kind of an awkward situation and I don't do this to embarrass anybody or to do anything like that, but just as a very personal perspective I looked up the conflict of interest sections for myself of our statute, Title 1 and I am not sure at all that I do have a conflict of interest by voting against this Bill. Obviously any attorney voting for the Bill is in effect voting against their economic interest so there certainly is no conflict there. Whereas I have decided I cannot vote for the Bill, I decided to go look this up to see exactly what that situation was.

Because I believe with all my heart that the amendments we were discussing yesterday have no financial interest whatsoever I didn't have a problem with that. I think that was very clear. Now the entire Bill is before us and I think there is a potential there for at least the appearance of a conflict of interest based on Title 1, Section 1014, 1-F. Therefore, Mr. President, I would request permission from the Senate to be excused from voting on this issue due to the appearance of a conflict of interest.

THE PRESIDENT: The Senator from Aroostook, Senator Carpenter, requests Leave of the Senate to be excused from voting because of the appearance of conflict of interest.

Is it the pleasure of the Senate to grant this Leave?

It is a vote.

Senate At Ease

The President requested the Sergeant-at-Arms to escort the Senator from Aroostook, Senator **VIOLETTE**, to the rostrum where he assumed the duties as President Pro-Tem.

The President then took a seat on the Floor of the Senate.

The Senate called to Order by the President Pro-Tem.

THE PRESIDENT PRO-TEM: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator **PRAY:** Thank you Mr. President. Mr. President, Ladies and Gentlemen of the Senate. Wendell Wilkie, a man whom I do not often quote, once said that a good slogan can defy analysis for fifty years.

The measure before us, in large part, is born out of a number of slogans. Here in the Halls of the State House, and in our newspapers, magazines and on television, we have repeatedly heard slogans when the issue of Workers' Compensation is discussed.

"Maine's business climate" and "just compensation" are but two of the most common slogans. However, as Edward R. Murrow said, "our major obligation is not to mistake slogans for solutions." As we review this Bill before us today, it is our sworn obligation to insure that the action that we take is in response to real problems; problems documented by the Evidence, and not just a response to a "good slogan." Much of the Bill before you is complex, full of percentages, mathematical computations and figures. It includes annual inflation adjustments, projections involving average weekly wages in future years and technical issues far beyond those commonly found in a single piece of legislation. But to just read the words and the numbers leaves out the human factor.

How will the benefit level caps, the maximum inflation adjustments, and the award calculations really effect those people who are legitimately hurt on the job? How will the revised attorney's fee provision effect those people who are hurt on the job? How will these changes effect the employers of these people who are hurt on the job? How will these changes affect the insurance companies servicing the employers and employees?

These are the questions we must answer and these are the competing interests which we must balance in our determination and decision on this issue today. For me, the balancing of those interests is not an easy one. I was elected to represent the people in my senate district, Senate District #5, just as each and everyone of us here in this Chamber have been elected to serve the people who chose us to have us serve here. For what is the State of Maine if it is not really and truly its people?

For that reason I have looked at the proposed reforms contained in L.D. 1634 to see how they benefit the people I have been elected to represent.

As I examine the Bill, I find many provisions in the Bill which do not benefit those who the workers' compensation act was designed to protect, our friends and neighbors who work in labor in the various workplaces, mills and factories throughout the State.

No, instead I find that an arbitrary cap is being placed on the maximum payment they will be entitled to receive.

No, instead I find that an annual inflation adjustment on that cap will be postponed for three years.

No, instead I find that the guarantee of a minimum payment is being taken away from those citizens of Maine who toil in a sheltered workshop.

I see that an artificial 5% cap on annual inflation adjustments to an already injured worker is being imposed.

And I find that I oppose each and every one of these items contained in this Bill. Ordinarily, that would be sufficient to enable me to determine how I'm going to vote on this measure.

However, this Bill is definitely a bitter-sweet measure. For it has incorporated within it a proposal which my office has worked long and hard to present to this Legislature to radically change the manner in which this State addresses health and safety in the workplaces of this State. Contained within this legislation is the beginning of a system which truly can provide protection from injury in the first place. A system rather than a slogan.

George Elliot said, "it is never to late to be what you might have been."

Because workers' compensation deals with an injury that has already occurred and how to compensate the injured worker, I believe we may have unknowingly focused our efforts on the system's inequities and strayed from the basic root of the problem itself. Basics such as how to keep workers' from job related injury and or even killed in the first place. And, I believe that the need for workplace safety and health efforts is evident. The statistics in the State of Maine speak loudly and clearly here.

During 1983, Maine's Department of Labor documented a disturbing increase in the rate of occupational injuries in Maine. The Department's report established that Maine's lost workday rate exceeded the national average by 90%. In fact, Maine's rate is the highest in the Country and doubled between 1972 and 1983. Furthermore, about 95% of all job-related claims in Maine's private sector during that year were injuries — the remaining 5% being illnesses related to occupation.

The lumber, logging and sawmill industry reported 25.5 injuries per 100 workers. That is better than 4 to 1 average. Fabricated metal products, such as ships, reported 20.9 per 100 employees. Leather products, such as shoes, reported 17.2 per 100 employees. The total case incident rate is the most hazardous industry group with about 23 times greater than that of the least hazardous group in this State, which incidentally was legal services. Compared to the experience in other states, Maine has even more reason to be concerned about the impact that these statistics have upon her people; Maine has the second highest case incident rate in the Nation; the second highest lost workday case incident rate in the Nation; the highest total lost workday rate in the Nation. Maine's working men and women are being injured at a rate far above national rates, and being injured more severely than any other workers in America.

In the first three months of this year, while this Legislature listened to the slogans, 2,862 Maine workers were injured on the job and filed a report with the Workers' Compensation Commission. The Commission estimates that by the end of this year there will be 18,650 lost time injuries in Maine. The evidence is clear that too many of Maine's working men and women are being maimed and injured while performing their duties and tasks for their employer. These are facts not slogans.

I find myself faced, as perhaps many of you do also, with Hobson's Choice — to take it or to leave it.

George Moore said that "the difficulty in life is the choice."

Examining L.D. 1634 in its entirety, I have concluded that I must choose to support this Bill in its enactment. I have made this choice because I truly believe that the most important aspect of this Bill is the new initiative to provide safer workplaces for Maine's working men and women.

For in the final analysis, it matters not what the benefit levels are if the injury is avoided in the first place and we can prevent our constituents and the laborers of this State from being hurt on the job. We must watch out that we do not cure the disease and kill the patient in this situation.

For this reason, Mr. President and Ladies and Gentlemen of the Senate, and only for this reason that this Bill contains a renewed initiative to save the patient, to protect the worker, to prevent the injury, will I tend to support this Bill in its enactment stage. Thank you.

THE PRESIDENT PRO-TEM: The President pro-tem would ask the Sergeant-at-Arms to escort the Senator from Penobscot, Senator PRAY, to the Rostrum where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Penobscot, Senator PRAY, to the Rostrum

where he resumed his duties as President.

The Sergeant-at-Arms escorted the Senator from Aroostook, Senator VIOLETTE, to his seat on the Floor of the Senate.

THE PRESIDENT: The pending question before the Senate is ENACTMENT.

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Mr. President, Men and Women of the Senate. I don't want to delay this matter any further, but I feel compelled to address this Body and briefly explain my position on this Bill.

After much thought I have decided that I am going to vote for enactment of L.D. 1634. As you are aware, after the debate yesterday I harbor grave concerns about certain other provisions in this legislation and I sincerely believe that the removal of legal protection for injured workers has the potential of incurring savings in the overall system at least equal to all the benefit reductions and that is not because lawyers are ripping off the system, but rather because many workers will have legitimate claims reduced or will not bring those claims to bear because of inability of access to appropriate and competent legal advice.

I have argued that position long and loud, I have lost today, I respect the sentiments of this Body and I do believe that when we talk about and deal with such major legislation as is embodied in L.D. 1634, I think all of us go forward with a leave of faith in this area and that it is perhaps best that we do so to the extent possible, one voice to articulate a sincere commitment on the part of this Legislature to deal in substantial fashion with the issue and the problems presented by workers' compensation.

My concerns remain, and to be frank with you it is my belief that we will have to come back and deal with the issue of access to legal representation. I do think that it will be idle at this point for me not to vote for enactment, the votes are here to pass the Bill and I also believe that by speeding the by Bill along its way perhaps those problems which I have pointed to become apparent sooner and we may be able to deal with them in the next Regular Session of this Legislature. I do agree there is much good embodied in L.D. 1634 and I think it is only fair to me to let the reforms which have been drafted and approved have their day in court so to speak. For these reasons I will vote for enactment for L.D. 1634. Thank you.

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

Senator BUSTIN: Thank you Mr. President, Men and Women of the Senate. I will not be voting for final enactment of this Bill. That is hard for me to say because if you take a look at this packet that I have in my hand — that is the packet that I worked with and it grew day by day as we did the rate case.

I suggested and pleaded that the rate bill not be put together with the other bill, but I knew it would be in any case. I think it is a fairly decent rate package. I am not completely comfortable even with that because I know there was not enough expertise down in Business and Commerce to really put out what I would term a first class product. But I could let that one go fairly easily, what I can't let go is the benefit package. Because as I have said yesterday and I have said many times, your asking my taxpayers dollars in the form of using Social Security to keep living wages, in fact you can call it living wage, and not the workers comp to take care of a disability of workers comp disability. That is something that a business should shoulder, not the taxpayer and that is what you are really doing.

We haven't devised a system yet that will keep those people off the welfare rolls while all this litigation goes on to solve their case. We have tried, we have tried many, many times to try to make the system so it will pay them. I have got a case right now where the man has

not had payment, he is losing his house, his phone is being shut off, he is not going to have electricity, he lost his car, what do you do for that, will this Bill address that? The answer is no it has not nor can it. Sure there are good things in these bills, there aren't enough good things to make me vote for it, I don't want my stamp of approval on this package.

I know as I knew yesterday that I am in a very small minority on this, but I can't treat the workers of this State that way. I will submit to you that there is a problem with workers' comp. I don't think we have addressed it. I don't know if it can be addressed. I don't know what we have done that we haven't been able to address in an equitable manner, but I do know that I personally do not think that it has been addressed equitably. Maybe I will be proven wrong, maybe I will. If I were convinced of that, I would vote the other way. I am just not convinced. I hope that some of you will be able to vote with me and vote against the pending motion.

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

Senator DUTREMBLE: Mr. President and Members of the Senate. The package that we are about to vote on represents a lot of time, a lot of work not only from the Labor Committee, but also from the Committee on Business and Commerce, the good Senator from Kennebec the Chair.

When we first took up the issue of workers' compensation in our Committee there were three areas we felt we had to address, safety, rehabilitation and benefits. To those who worked on the Committee we believe that all three needed some change and we believed that all three were responsible for the way the workers' compensation system is today. We had our system where many people were getting hurt on the job and a lot of members of the Committee including myself felt that safety had to be a top priority of our Committee.

Because of the good Senator, Mr. President, Senator Pray and his package were able to include safety precautions in the package. Rehabilitation. We felt that it was important that workers be returned to work and that they not be forgotten just because they are injured. Thirdly the benefits. Many felt, including myself, that the benefits had become too liberal in some cases. So we addressed those three issues and we came out with a package. It would have been nice of the members of the Committee to give everything that labor wanted, but we couldn't. It would have been nice for us to give everything to business that they wanted, but we couldn't. It would have been nice to give everything to the therapists and the attorneys and any of the other factions that were present, but we couldn't.

What we have to do through all the process was sift through tons of information and come out with a package that we hoped would address the problems dealing with workers' compensation and after we took the final vote in my mind and the minds of the members of my Committee, we felt that we had done that. I feel perfectly comfortable voting for this package, I can go home and sell it to anybody who wants to talk to me about it and I can explain to them why it was done.

We talked about the injured worker, I am very concerned about the injured worker, I also have constituents, not only that but I come from a constituency that is heavy labor. So, I more than anybody else here probably will suffer more consequences than anybody, but I feel comfortable with what I have done. You know my area, the Biddeford/Saco area in the late 60's and early 70's went through a severe period of economic depression and a lot of the industries moved out. There were textiles and shoes, well you know what has happened to those two industries, one has moved down South and the other has moved out of the country. I haven't received that many calls on

this issue, maybe it is because the people in my area realize that we have to do something sometimes to keep industries.

Why do we have to wait until industries come here to this Legislature and ask for help? Why can't we protect them now? I feel that what we have done in this package has made the workers' compensation system tighter, more fair, more equitable at a cost savings to the employers and at the same time we have maintained a system that protects the injured worker. The workers' comp system hasn't been destroyed, we haven't turned the pendulum way to the other side, we have straightened the ship on course a little bit.

The benefit levels that are now present in our system are still the best in the country or amongst the best in the country. We have provisions in this system that a lot of states don't even come close to touching. The only thing we have done is made the ship sail a little straighter. I would hope that you could support this package today and vote for it on enactment. Thank you.

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

Senator **VIOLETTE:** Mr. President, Ladies and Gentlemen of the Senate. Very briefly, I have no prepared text or anything, but I just wanted to share with you my sort of fundamental concern as it relates to this entire issue of workers' comp. I don't believe, quite frankly, that if this Legislation had existed when industry moved South and out of this country that this would have been what would have kept those industries in the State. I guess if you are willing to pay people minimum wage and move the plants out of the country so you can pay them 50 cents an hour, this isn't really going to matter.

The basis of my concern with respect to reform and workers comp. has been the issue of safety, **safety**. To me that really goes to the core of this issue. I guess you can fool around with indexing and capping attorneys fees and everything else, but you know, you are still going to have costs as workers are injured. I really had a wonderful opportunity to go up to Madawaska, Maine, all the way up to the other end of the State, sort of like southern Canada and go to Fraser Paper Company where they employ 1,100 men and women in that plant in one of the occupations that has a higher rate of injury in this state to celebrate with management and employees; 2 million man-hours, 365 days, without an injury and Ladies and Gentlemen, that is how you are going to solve this problem. That is the answer to this problem, it's not tinkering with these elements of the workers' comp. plan and I guess this legislation to some extent tries to address doing something with safety and perhaps we owe credit to the President of the Senate and a number of others who introduced legislation to that effect. That is the way you are going to cut costs on workers' comp.

THE PRESIDENT: A Roll Call has been ordered.

The pending question before the Senate is **ENACTMENT**.

A Yes vote will be in favor of **ENACTMENT**.

A No vote will be opposed.

Senator **USHER** of Cumberland who would have voted Nay requested and received permission to pair his vote with Senator **BROWN** of Washington who would have voted Yea.

THE PRESIDENT: The pending question before the Senate is **ENACTMENT**.

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

ROLL CALL

YEAS:—Senators, Baldacci, Berube, Black, Chalmers, Clark, Danton, Diamond, Dow, Dutremble, Emerson, Erwin, Gauvreau, Gill, Hichens, Kany, Matthews, Maybury, McBreairty, Pearson, Perkins, Sewall, Stover, Trafton, Twitchell, Violette, Webster, The President — Charles P. Pray

NAYS:—Senators, Andrews, Bustin, Shute
ABSENT:—Senators, Najarian, Tuttle
This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, and 3 Senators having voted in negative, with 2 Senators Pairing their votes and 2 Senators absent and 1 Senator being excused, and 27 being more than two-thirds of the entire elected Membership, the Bill 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

House

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act Concerning 'Constructive Quit' under the Employment Security Law" (H.P. 822) (L.D. 1163)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-403)**.

Signed:

Senators:

DUTREMBLE of York
BLACK of Cumberland

Representatives:

JOSEPH of Waterville
WILLEY of Hampden
TAMMARO of Baileyville
BONNEY of Falmouth
RUHLIN of Brewer
BEGLEY of Waldoboro

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

Signed:

Representatives:

BEAULIEU of Portland
HALE of Sanford

(Absent: Senator **TUTTLE** of York)

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-403)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-403)**.

Which Reports were **READ**.

The Majority **UGHT TO PASS AS AMENDED** Report was **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-403) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act to Enhance Enforcement of Drug Laws at the Local Level" (H.P. 821) (L.D. 1162)

Bill "An Act Concerning Appointment of Counsel for Indigent Criminal Defendants" (H.P. 881) (L.D. 1238)

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act to Amend and Clarify the Maine Juvenile Code" (H.P. 746) (L.D. 1069)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-406)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-406)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-406) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **JUDICIARY** on Bill "An Act to Amend the Disclosure of Licensing Records Regarding Adult and Child Care Programs to Clarify Procedures Relating to Vital Statistic Records and Clarify Officials Authorized to Act as Public Guardians or Conservators under the Probate Code" (H.P. 584) (L.D. 854)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-407)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-407)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-407) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

The Committee on **JUDICIARY** on Bill "An Act to Prohibit Consumption of Alcoholic Beverages within 15 Feet of a Public Way" (H.P. 529) (L.D. 749)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-405)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-405)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-405) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME**.

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

Senator **CARPENTER:** Mr. President. Just to clarify any confusion that may exist on this Bill. This was a Bill that purported to do just exactly what the title says and that is to prohibit the drinking and consumption of alcoholic beverages within fifteen feet of a public way and it primarily results in some of the urban areas of the State where they have a difficult time handling the warning situation which is in existing law and that situation being that nobody is guilty of the crime of drinking in public until they have been warned once and then the second time they are then guilty.

Because of a large flow of people moving in and out one police officer gives the warning and he moves on to do his job and the next police officer comes along ten minutes later and they are back drinking again, but the second police officer doesn't know the first police officer has given him a warning, so ultimately in some of these situations apparently they were no counteracting the problem we tried to address a couple of years ago.

There was a discussion in the Committee as to whether or not to take out the warning, just take out the warning. If you are caught drinking a beer in a public place where you know you don't have the right to drink, then you are subject to the criminal offense of drinking in public. We decided not to do that, we decided to allow the warning to be given in a different way and that different way is simply if the owner of the public place posts that public place in a conspicuous manner, and if the person is then drinking within 150 feet and I realize you can choose an arbitrary figure of

200 or 100 or 600 or whatever, we chose 150, that will constitute the warning and therefore, if you are caught drinking within that perimeter, you will not need to be warned again. That is exactly what the Bill does.

Other than that, it doesn't change what is a public place, it doesn't change the definition of that, it will have no effect on your own property and all the rest of the placed that are non public places in present law. It simply says any place that is defined as a public place and existing statute that you can post that and that will constitute the warning. Thank you.

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

Senator **VIOLETTE:** Mr. President and Ladies and Gentlemen of the Senate. I am not going to ask for a division on this, but this amendment really doesn't please me at all.

The original bill, at least the title was 15 feet of a public way and the amendment deals with consumption within 150 feet of a public way, from 15 to 150. Now what we are saying is you don't have to give a verbal warning anymore and this was not handled by the Committee on Judiciary. When I first dealt with it, I was on Legal Affairs and we dealt with this issue. I remember very well the issue here. The Committee went along with this Bill but there was also concern that where, in fact, you know, this becomes very nebulous. This 150 feet, you know we have got to run the tape measure out from the sign. I'm not sure here, we were concerned and all they had to do was put up this sign evidently, that was enough and that is going to be the warning now. I understand where this is a problem okay, but where it really isn't now.

The Committee had originally been concerned with the issue to the extent that Old Orchard had been having a problem at that time with respect to consumption of beverages in public and the Committee was sympathetic with that, but they tried to allow it so that in areas where it was not so much a problem, people could at least have that initial warning. A couple go on a picnic somewhere and they happen to be on public property, not causing any disturbance or the like and perhaps they do have an alcoholic beverage, at least they should be warned verbally. This will say that if there is a sign there, they can immediately, from the way I read this, immediately they are subject here.

I guess I thought we had helped the Old Orchards of the world so to speak, not to say that is where the problem is, but it was the reason why that legislation was changed, the law was changed to allow for the warning to be given and this just really concerns me and I guess I just wanted to express my concern and I remember the original intent of the Committee when we had placed this on the books changing the statute, allowing officers of the law more flexibility, more control by these safety people particularly as that related to congested areas in the summer along the coast. But, you know, the concerns I raise, none the less I just wish to share them with the members of the Senate.

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

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate. Just to clarify one thing, this is a Portland bill rather than an Old Orchard bill. I am looking at Title 17, Section 2003A. Present law reads this way. *"A person is guilty of public drinking, after being forbidden to do so personally by a law enforcement officer"* and that is where the problem arises. You can commit the offense if you will, twice before it becomes a crime. It becomes a crime on the second time around. I think we all understand that. Public place by the way is defined in that same section, Title 17, Section 2003A, but I won't go through all the definitions, but they are real public places and this bill came to us assuming because it

was seeking to amend a criminal offense and that normally goes to Judiciary although I do remember the other bill coming out of Legal Affairs.

That is exactly what the Bill does, I don't think it is deceitful in anyway and I am just looking around the Senate Chamber and I am wondering if we posted a sign in this, being an outdoor park or something, if we posted a sign that says no drinking of alcoholic beverages allowed here and it was posted conspicuously, those are issues for the court, those are issues of evidence as to whether the sign was conspicuous, was it posted, was the person drinking within 150 feet. You can always imagine the scenario when the guy get a tape measure and wanders out 151 feet and stands there and drinks. If he does that and has to be warned personally by the officer for a second time, the existing law kicks in. I don't see this as a major deviation from the existing law except to allow some of the municipalities where they have places where it is well known to be places where they hang out and drink that they can post it and that they won't have to keep an officer right there to say this is your warning, this is your warning, this is your warning, this is your warning, and then they come back in ten minutes or ten hours, does the warning still hold? How long does the warning hold? That's not in the law anywhere so we don't know. If I warn the Senator from Franklin, Senator Webster, now and I come back and catch him drinking again in ten minutes, have I warned him once, if I come back in two hours, have I warned him once? It is very unclear, we are simply trying to make it a little bit easier for the owners or authorized persons relative to these public places.

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

Senator **TRAFTON:** Thank you Mr. President. Mr. President and Members of the Senate. It gives me great pleasure to rise in support of the Senator from Aroostook, Senator Violette. It seems to me that we are dealing with a problem that is isolated to the municipality of Portland and it sounds to me if Portland has so many police officers that is can't coordinate its type of crowd control, nor can its police officers talk to one another so they know who has been notified and who has not been notified.

As an attorney, I will tell you the first argument I would make if I were to defend this type of case and that would be that the sign was not conspicuously posted. What does that mean. Does it mean 3 inch letters, 4 inch letters, 5 inch letters, what happens if you are on one side of the sign and the sign doesn't face you. I suggest that is really going to be a problem and that this law may not be enforceable at all.

I recall the issues as public drinking the problems that were existing at the time and the requests from some of our summer towns, our municipalities that grow due to summer residents and there was a fine balance struck by the first verbal warning given. I suggest that first warning is only fair. Are we giving notices in French to those people on our southern beaches that visit us from Canada? That is an issue to consider. I suggest that this Bill may be inappropriately drafted. In this form I can't support it. I join with the Senator from Aroostook, Senator Violette in opposing this amendment.

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

Senator **VIOLETTE:** Mr. President and Ladies and Gentlemen of the Senate. I agree to some degree with the Senator from Androscoggin, Senator Trafton. There was a fine line that was drawn in the Legal Affairs Committee when we got this Bill originally and there was a great concern on the part of the people on the Committee on Legal Affairs and quite frankly for those people that wanted to

make this change so that the power could not be abused. As far as I am concerned that's the reason why we had the two warnings and this takes that out. This removes it, the first warning is the sign the minute he sees somebody, I don't care just because he has a problem with somebody that is not causing any trouble, family, whatever it is, having a picnic whatever, that's it, the first warning was from the sign, the second warning and the time comes when he can deal with you is the first time he walks up to you. You haven't seen the sign, 150 feet away here and Mr. President, I move the Indefinite Postponement of this Bill.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Chalmers.

Senator **CHALMERS:** Mr. President, thank you very much. Ladies and Gentlemen of the Senate. It seems to me that there are some areas in the State that have a problem with drinking on the streets or public ways if you will. Periodically in Rockland we have had the problem, we have in some of the towns a sign that is posted no loitering or this park is closed an hour before sundown or an hour after sundown and an hour before sunrise. These are signs about the size of a no parking sign, and these signs notify people that are on our streets or in our parks what our current laws are and it seems to me entirely appropriate if you have a park area or a street area that is a particular problem, you can post this sign.

All laws can be misinterpreted and abused depending upon how the law officer feels that morning or who he wants to go after. This law is capable of being interpreted and there are some questions which will ultimately have to be devised in court. I, too, defending this could say that the light wasn't on and I didn't see the sign but it is a matter of proof, it is a matter of the local community to work on. This gives Portland and some other of the local coastal communities that swell and have a problem in the summer, this gives them a way to control their streets and I submit that this is a reasonable approach. Thank you.

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

Senator **CARPENTER:** Mr. President, Ladies and Gentlemen of the Senate. First of all this is not a lawyer's Bill. Mr. President, the situation as defined by Senator Trafton is certainly a possibility, but I would submit to you that is a less likely possibility than the existing situation where is a person comes to me as an attorney and says they have been arrested for public drinking and the first thing I am going to say is did you receive a warning and if the person says yes and it was two hours before, then I am certainly going to go in and argue you know, that's a real gray area.

If in fact the State has decided that drinking in public is an offense which they wish to make punishable in some way, I think that we ought to do something with the warning situation if not this, then we ought to at least define within which time frame in my hypothetical warning is good for, how long. It's like a vaccination, how long is the vaccination good for. Is it good for ten minutes or four hours and I don't think anybody has taken that into the court system and found out what the court thinks is a reasonable period of time. But it seems to me that if you are having a picnic on a public piece of property under a sign, and I say under because I think 150 feet is not a great deal of distance, that very clearly says that you may not drink in this area, if you are then arrested by the police officer it seems to me that you have been duly warned. And isn't that what we are trying to get at here?

Don't we simply want to put people on notice? Isn't that the purpose of the warning? You are not supposed to drink here, what is the difference between me saying that and having it posted on a sign in a conspicuous place? I don't know what conspicuous means and I don't think anybody can define it. If we had

wanted to define it we would have said, "with letters at least five inches high," but again, I think that is a matter of proof and if the letters are not five inches high and I get arrested, chances are I am not going to take it to court because I think the court will probably find that to be a reasonable definition of conspicuous.

Mr. President I request a Division on the pending motion.

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

Senator **DANTON:** Mr. President and Members of the Senate. First I want to speak on this issue and secondly I would like to try out my new mike Mr. President.

Thank you, Mr. President. I am not really concerned about this Bill, but I am really concerned that the law that we presently have really works good. Let me just give you a little history because some of us that have been here for a while have brought this problem to the legislature. I can remember the first time I introduced this bill in front of the Legal Affairs Committee a few years ago. They looked at me as if I was a little wacky, that people weren't causing any problems drinking in public.

But you know, when I first came to the Maine Legislature the drinking age was, I believe 20 years old. Then we passed the adult rights age and we dropped the drinking age down to 18 and then after a couple or three years of drinking at the age of 18 we decided we wanted the drinking age to go back up to 20. That left 18 and 19 year olds somewhere to go after they were used to going into bar rooms from the age of 18; consequently in my town as it had been mentioned here before, we had a problem, we had a problem in that those 18 or 19 year old that could no longer go into bar rooms or lounges now wanted to drink their beer and they found it convenient on the nice benches they have on Old Orchard Street to have a six-pack, sit on the bench and enjoy a beer.

How about the motorcycle riders with their saddle bags in the back and their cans of beer on ice? They used to enjoy having a cool one while they were sitting on their motorcycles. At that time it was a civil offense. A police officer could see you drinking in public, he would go up and ask you your name, you could give him any name, you could tell him your name was Jack Wyman, he would offer you a civil offense, a ticket and you never had to appear in court and that was the end of it.

After much debate and discussions here in the Legislature and in fact I think the Senator from York, Senator Hichens, was either sponsor or cosponsor, they finally put the bill in again and the Legislature finally realized, yes they finally did, once in a while we do realize things, that there was a problem. People were drinking in public, decent people couldn't walk with their families on main streets, on cool evenings with their families and enjoy the ocean breeze, and we did pass the law. Now, this law works very well in my community. The police officer will go up to someone who is drinking and they will say to them, I'm sorry but there is no drinking in public allowed, please do away with that can or bottle of beer. If he does not do away with it, then the police officer will take that can or bottle, pour the contents out and he can summons him, that is the warning.

Now as far as a sign is concerned, I am sure it might work all right, but I think the warning factor is very important because at least a person who is just into our state is warned that we do not allow drinking in public. And if that sign is there and people are in an area and for some reason or another they do not see that sign and then the paddy wagon pulls up and loads 15 or 20 people into the paddy wagon and takes them off to the lock-up, you know I don't think that is what we really want to do and I can appreciate that warning sign — no

drinking within 150 feet or whatever, but I think our present law is working fine. I don't want to take any chances on losing what we have, it was a long battle to get what we have and I am going to support the motion to do away with this Bill even though sometimes the Committee doesn't like a unanimous ought to pass report to do down the drain. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **VIOLETTE** of Aroostook, that this Bill and all Accompanying Papers be **INDEFINITELY POSTPONED**. A Division has been requested.

Will all those Senators in favor of the motion of Senator **VIOLETTE** of Aroostook, that this Bill and all Accompanying Papers be **INDEFINITELY POSTPONED**, please rise in their places and remain standing until counted.

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

15 Senators having voted in the affirmative, and 5 Senators having voted in the negative, the motion of the Senator from Aroostook, Senator **VIOLETTE**, to **INDEFINITELY POSTPONE** Bill and all Accompanying Papers **PREVAILS IN NON-CONCURRENCE**.

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Committee of Conference

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Bill "An Act to Reduce the Hours Required for Master and Journeyman Electricians" (H.P. 419) (L.D. 599)

Have had the same under consideration and ask leave to report that they are unable to agree.

Signed on the part of the Senate:

Senator **BUSTIN** of Kennebec

Senator **DANTON** of York

Senator **SEWALL** of Lincoln

Signed on the part of the House:

Representative **THERIAULT** of Fort Kent

Representative **RYDELL** of Brunswick

Representative **BAKER** of Orrington

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

Sent down for concurrence.

SECOND READERS

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

Senate As Amended

Bill "An Act to Modify Inequitable Income Eligibility Guidelines in the Elderly Householders Tax and Rent Refund Act and to Increase Income Eligibility to Conform with Other Federally Established Poverty Levels" (S.P. 85) (L.D. 266) (C "A" S-281)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, ordered sent down forthwith for concurrence.

ORDERS OF THE DAY

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

An Act to Amend the Probate Code to Improve Guardianship and Conservatorship Proceedings (S.P. 218) (L.D. 577) (H "A" H-361 to C "A" S-176)

Tabled—June 13, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**ENACTMENT**

(In House June 12, 1985, **PASSED TO BE ENACTED**.)

(In Senate June 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY HOUSE AMENDMENT "A" (H-361)**,

thereto in concurrence.)

On motion by Senator **TRAFTON** of Androscoggin, the Senate **SUSPENDED THE RULES**.

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

On further motion by same Senator, the Senate **SUSPENDED THE RULES**.

On further motion of the same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (S-176).

On further motion by the same Senator, Senate Amendment "A" (S-285) to Committee Amendment "A" (S-176) **READ**.

Senate At Ease

Senate called to Order by the President.

Senate Amendment "A" (S-285) to Committee Amendment "A" (S-176) **ADOPTED**.

Committee Amendment "A" (S-176) as Amended by Senate Amendment "A" (S-285) and House Amendment (H-361) thereto **ADOPTED IN NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED AS AMENDED, IN NON-CONCURRENCE**.

Sent down for concurrence.

The President laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Establish Age 21 Years as the Legal Age to Purchase or Consume Alcoholic Beverages and to Deter Drinking and Driving by Minors" (Emergency) (S.P. 332) (L.D. 820) (C "A" S-118; S "A" S-140)

Tabled—June 13, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—Motion of Senator **TRAFTON** of Androscoggin to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-261) to Committee Amendment "A" (S-118)

(In Senate June 13, 1985, **RECONSIDERED ADOPTION** of Committee Amendment "A" (S-118). Senate Amendment "A" (S-261) to Committee Amendment "A" (S-118) **READ**.)

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

Senator **VIOLETTE:** Mr. President, I requested Leave of the Senate to Withdraw Senate Amendment "A" (S-261) to Committee Amendment "A" (S-118)

THE PRESIDENT: The Senator from Aroostook, Senator **Violette**, requests Leave of the Senate to Withdraw Senate Amendment "A" (S-261) to Committee Amendment "A" (S-118).

Is it the pleasure of the Senate to grant this Leave?

It is a vote.

On motion by Senator **BALDACCI** of Penobscot, Senate Amendment "C" (S-284) to Committee Amendment "A" (S-118) was **READ**.

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

Senator **TRAFTON:** Thank you Mr. President. I pose a question through the Chair as to what Senate Amendment "C" (S-284) to Committee Amendment "A" (S-118) does to this Bill?

THE PRESIDENT: The Senator from Androscoggin, Senator **Trafton** has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Penobscot, Senator **Baldacci**.

Senator **BALDACCI:** Mr. President and Members of the Senate. This amendment basically does what I was talking about this morning which takes the effective date to July 1, 1985 and incorporates the amendment that the Senator from Aroostook, Senator **Violette**, had within his proposal and leaves that as the effective date.

Because of the concern of the effective date

and what was going on according to the liquor enforcement officer, it seems that in answer to the good Senator from York, Senator Danton, this morning is that the New Hampshire law is effective June 1st and that the grandfathering had to do with the 20-year-olds up until June 1st but there were problems according to the liquor enforcement officer of cases of border hopping. So I thought it would be very important to move this effective date as soon as possible to July 1st and incorporating the recommendations of the Senator from Aroostook, Senator Violette.

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

Senator **TRAFTON:** Thank you Mr. President. Mr. President and Members of the Senate. This amendment as described by the good Senator from Penobscot, Senator Baldacci, does not address my concern of the underage server having considerable peer pressure placed on him or her to sell liquor illegally and consequently, I am opposing this amendment.

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

Senator **BALDACC:** Mr. President. I request a Division.

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

Senator **VIOLETTE:** Mr. President and Ladies and Gentlemen of the Senate. We debated this issue at length this morning the good gentlemen, the good Senator from Penobscot, Senator Baldacci, had some concerns and it is for that reason I withdrew my amendment, I have no problems with that, but I would hope that you would vote in favor of this particular amendment.

I join and concur and share the concerns raised by Senator Baldacci and I just wish to leave with you the basis for my arguments this morning that what we do here today if we do not remove from adults the ability in instances to make a living and to be employed because of the restrictions that this Bill places on adults. If we do not enact this particular amendment of the restrictions that will place on our adults in this state and their ability, some of them to earn a living. Thank you.

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

Senator **HICHENS:** Mr. President and Members of the Senate. As has already been stated this amendment that we had this morning was debated, this other amendment only changes the effective date, so those arguments are still in order and I would reaffirm the statements made by the good Senator from Androscoggin, Senator Trafton, that the bill that we passed earlier this session was signed by the Governor, it is a good bill I don't think we should tamper with it at this present time and find out how it works and leave things just the way they are. I would ask for a Roll Call Mr. President.

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

Senator **PEARSON:** Mr. President, Men and Women of the Senate. When we had a debate earlier in the day, it was indicated that there was a lot of peer pressure and remember we addressed that issue a little bit. It is true that people are subject to peer pressure, but I think that you ought to remember they are also subject to, at least in my experience all the kids I have ever known, the ones that wanted a job bad enough to go out and get a job and sometimes that is very difficult for them to find, if they want a job more than anything else and if the employer as he always, always does say to them, if you sell any of that beer or wine, or whatever it is, to somebody who is underage, you are fired. They tell them that, everyone of them. There is no question about that at all because the person that hired them his license is on the line. That is more pressure than peer pressure for 99% of the people that work there because they need that job.

I just would like to have you try to imagine

how difficult it is in this State in particular for a young man or a young woman to get a job who is 18, 19, 20 years of age. It is very, very difficult. I just happen to know an awful lot of kids that go out looking for jobs in December, January and February so they can have a job in the summer, and there are a lot of them that don't get a job. I don't think that it is asking too much for those people to be able to get a part time job working in a grocery store of some sort. This is not a moral issue. You know, are they consuming too much alcohol type of an issue and consequently I think that this proposal of Senator Baldacci's is a reasonable one. It goes into effect a little earlier than it would have normally.

I would also like to reiterate what Senator Violette had said. You have a tendency in this Chamber and I am as guilty as anybody else I suppose, to think that the only section of Maine is the section you live in. Most of Maine is not surrounded by New Hampshire, it is surrounded by Quebec and New Brunswick and if you have this fear about age and all that business, they will go right through this State into New Brunswick and Quebec, so I think that is kind of a superfluous issue. I urge you to allow these young men and women, some of them are married, any of who are trying to earn money to go to school, some of them are trying to make the payments on the first car they have ever owned and all those other things to be able to make a living and in Enfield or Burlington or Howland or any of those towns that I represent for a large measure that is the only place they are going to be able to work is at the local mom and pop stores. Some of those kids are the sons and daughters of the owner of that store.

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

Senator **SHUTE:** Mr. President, Ladies and Gentlemen of the Senate. I favor this amendment, I also favor the twenty-one year old drinking age for young people. If young people 18, 19, or 20 can get married and when they do, certainly they need a little income or if they have enough initiative to try to earn money for an education and we deny them that opportunity, I don't think we are doing the right thing. Young people 18 years old or 19 years old, they can sell dynamite in a store, they can sell guns, they can sell knives, so why shouldn't they be able to handle a bottle of beer or wine.

My youngest son worked in a store when he was in high school and afterwards and got married immediately afterwards and also worked in that store when he was going to college. I don't think that this Body should deny people, young people that are old enough to drive an automobile, they should have the right of making a little money to provide for their family or their education. I see nothing wrong with this. I think at 18 years old you take on a lot of responsibility and I don't think this is the greatest responsibility there ever was of selling a bottle of beer or wine.

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

Senator **MCBREAIRTY:** Mr. President and Honorable Members of the Senate. I don't very often debate a liquor bill because I lack experience. But, do I understand that without this amendment that a person the day before his 21st birthday couldn't be a clerk in a store that sells beer and one day after his 21st birthday he could be in the legislature deciding all these important issues, am I right? If I'm not somebody answer.

THE PRESIDENT: The Senator from Aroostook, Senator McBreairty has posed a question through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator **TRAFTON:** Thank you Mr. President. I can assure the good Senator from Aroostook Senator McBreairty, that the answer to his question is no. The only thing that the

Bill as amended without this current amendment has proposed does is that it requires that a server or a seller be at least legal drinking age or there must be a supervisor in the establishment that is at least drinking age.

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 in order.

Senator **TRAFTON** of Androscoggin who would have voted Nay requested and received permission to pair his vote with Senator **TUTTLE** of York who would have voted Yea.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BALDACC:** of Penobscot to **ADOPT** Senate Amendment "C" (S-284) to Committee Amendment "A" (S-118).

A Yes vote will be in favor of the **ADOPTION** of Senate Amendment "C" (S-284) to Committee Amendment "A" (S-118).

A No vote will be opposed. The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Andrews, Baldacci, Berube, Black, Bustin, Carpenter, Chalmers, Clark, Danton, Dow, Dutremble, Emerson, Erwin, Gauvreau, Gill, Kany, McBreairty, Pearson, Perkins, Shute, Twitchell, Usher, Violette, The President — Charles P. Pray

NAYS:—Senators, Hichens, Matthews, Maybury, Sewall, Stover, Webster

ABSENT:—Senators, Brown, Diamond, Najarian

24 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 2 Senators Pairing their votes and 3 Senators being absent, the motion by Senator **BALDACC:** of Penobscot to **ADOPT** Senate Amendment "C" (S-284) to Committee Amendment "A" (S-118), **PREVAILS.**

Committee Amendment "A" (S-118) as Amended by Senate Amendment "C" (S-284) thereto was **ADOPTED.**

Which was **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Senate At Ease

Senate called to Order by the President.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **ANDREWS** for the Committee on **UTILITIES** on Bill "An Act to Establish a Spent Nuclear Fuel Disposal Trust Fund" (S.P. 370) (L.D. 1004)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-286)**

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

Committee Amendment "A" (S-286) **READ** and **ADOPTED**

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

Off Record Remarks

Senator **PEARSON** of Penobscot was granted unanimous consent to address the Senate Off Record.

On motion by Senator **PEARSON** of Penobscot,

ADJOURNED until 11 o'clock tomorrow morning.