

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Tenth  
Legislature***

**OF THE**

**STATE OF MAINE**

***Volume II***

**FIRST REGULAR SESSION**

**MAY 4, 1981 to JUNE 19, 1981**

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

May 8, 1981

Senate called to order by the President.

Prayer by the Reverend George C. Bland, Jr., of the South Parish Congregational Church in Augusta.

REVEREND BLAND: Let us pray. Almighty God, the oldest stories of our faith encourage us to understand that we are made in Your image, even so, the eldest and most honored instruments of our national history forged in the households of deists treat us as equal in Your sight, with equal access under law.

Gathered in Your name, O'God, as servants of Your community, we confess our powerlessness before the occasionally painful challenges of this, our democratic experiment, in ever wider inclusiveness. Reveal Yourself as a God of judgement and of mercy, that Your reconciling spirit may burn brightly in us all.

Permit evermore, that we may glimpse by the continued historical breaking open of Your word, the dignity of Your image in all Your children, Jew and Gentile, man and woman, white and black, Franco and Anglo-American, Vietnamese and Cambodian, gay and straight, Cuban and Haitian. In loyalty to You, O'God and in vulnerability, before the needs of our fellow women and men, we make this prayer. Amen.

Reading of the Journal of yesterday.

**Papers from the House**  
**Non-concurrent Matter**

Bill, "An Act to Reduce the Length of the Maine Legislative Session." (S. P. 436) (L. D. 1265)

In the Senate, April 30, 1981, the Bill Passed to be Engrossed.

Comes from the House, the Majority Ought Not to Pass Report Read and Accepted, in non-concurrence.

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

Senator COLLINS: Mr. President, I do not have very much hope of shortening future Legislative Sessions, but in the interests of shortening this one, I move that we Recede and Concur.

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

Senator DEVOE: Thank you, Mr. President, Mr. President, and Members of the Senate, I will try to be brief in the interests of efficiency, which is what this Bill is all about. We haven't debated the Bill. I oppose the pending motion. I'd like to have the Body at the other end of the hall be the ones responsible for defeating this, if it is to be defeated.

Just a few facts. Taking our six New England states, Massachusetts is the only state that has a longer Legislative Session than Maine's. They go to virtually years end. Vermont has a unique provision where they stop the legislative pay on April 17. Somehow, that must mean that they manage to get their business done. Vermont convened this year, for your information, on January 7. They have the same environmental problems. They have the same sociological problems that Maine does. New Hampshire goes 90 days, or June 1, whichever comes first. Rhode Island has a 60 day limit. They convened on January 6. Connecticut has an expected adjournment date about the same as Maine's. They will go, by statute, no later than the first Wednesday after the Monday in June.

Members of the Senate, of other New England states can do it, then I think we can do it. I don't think it needs to take us 100 days to do our business.

I shudder to think what all businesses in this State would be like, if all businesses were run

the way this Legislature runs, not facing up to issues, and not getting down to business as soon as we get here.

Of our 50 states that we have, 31 will adjourn by or before June 5, which, from the talk I hear, is the expected adjournment date of this particular Session. We're in a minority, if we go to June 5 or beyond. Only 11 out of the 50 states will likely adjourn their legislature later during the first year of their session, than we will adjourn ours. Alabama has the unique provision in that they go 105 calendar days, they began this year on February 3. They'll finish on May 17. Texas has a limit of 140 days. Washington has a limit of 105 days. Those are two states that specifically have set limits in their statute that are longer than Maine's.

I don't think this Bill is going to get a lot of debate. I didn't sponsor it, thinking the first year that it might pass. I'd like to have the Body at the other end of the corridor kill it, because I think that the Body at the other end of the hall is the one, perhaps even more responsible than this Body is, for lagging and foot dragging, and not getting down to business.

Mr. President, I'd like to have a Roll Call vote on the motion to Recede and Concur.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, I will be voting to Recede and Concur. I think that it's inappropriate for us to try to put a time limit on the ideas that are required. I think that ideas take a long time to germinate sometimes. I think it's a disrespect to the voters to imply that our intelligence, we can limit it to 100 days.

I think it's ironic that today we can look at all the other states, and say that we should follow their lead, but when I wanted you to follow the lead of Alaska, we couldn't do that.

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

Senator KERRY: I rise to support the position of Senator Wood for a different reason. Although I did disagree with him yesterday, I do concur with him on this point today.

I also would like to refer to the good Senator from Penobscot, that he has often times spoken against things that would limit the judicial decision making of various bodies by mandatorially having limitations and taking away discretion. I think the Legislative Body itself can determine these factors within the current parameters that are now on statutory provision.

I therefore would vote along with Senator Wood, to Recede and Concur.

The PRESIDENT: Is the Senate ready for the question?

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

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

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

(Off Record Remarks)

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Collins, that the Senate Recede and Concur with the House.

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**

YEA — Bustin, Carpenter, Charette, Collins, Conley, Dutremble, Hichens, Kerry, Minkowsky, Najarian, Pray, Trafton, Trotzky, Violette, Wood.

NAY — Ault, Brown, Clark, Devoe, Emerson, Gill, Huber, McBreaity, O'Leary, Redmond, Sewall, C.; Shute, Sutton, Teague, The President J. Sewall.

ABSENT — Perkins, Pierce, Usher.

A Roll Call was had.

15 Senators having voted in the affirmative and 15 Senators in the negative, with 3 Senators being absent, the motion to Recede and Concur with the House does not prevail.

Is it the pleasure of the Senate to Adhere?

It is a vote.

**Non-concurrent Matter**

RESOLVE, Authorizing Gerald Pelletier to Bring Civil Action Against the State of Maine. (H. P. 286) (L. D. 333)

In the House, May 5, 1981, Finally Passed.

In the Senate, May 7, 1981, Failed of Final Passage.

Comes from the House, that Body Having Adhered.

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

Senator COLLINS: I move the Senate Adhere.

The PRESIDENT: The Senator from Knox, Senator Collins, moves that the Senate Adhere.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, I ask that we Recede and Concur and ask for a Division. Thank you.

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

Senator COLLINS: I request a Roll Call.

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

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

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

The pending question before the Senate is the motion by the Senator from Aroostook, Senator Violette, that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the motion to Recede and Concur with the House.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEA — Carpenter, Charette, Dutremble, Kerry, McBreaity, Najarian, O'Leary, Pray, Shute, Violette, Wood.

NAY — Ault, Brown, Bustin, Clark, Collins, Conley, Devoe, Emerson, Gill, Hichens, Huber, Minkowsky, Redmond, Sewall, C.; Sutton, Teague, Trafton, Trotzky.

ABSENT — Perkins, Pierce, Usher.

A Roll Call was had.

11 Senators having voted in the affirmative and 18 Senators in the negative, with 3 Senators being absent, the motion to Recede and Concur with the House does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

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

Senator COLLINS: I move Reconsideration.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Knox, Senator Collins, that the Senate Reconsider its action whereby it voted to Adhere.

Will all those Senators in favor of Reconsideration, please say "Yes".

Will all those Senators opposed, please say "No."

A Viva Voce Vote be had, the motion to Reconsider does not prevail.

**Non-concurrent Matter**

Bill, "An Act to Exempt Certain Signs from the Billboard Law." (S. P. 378) (L. D. 1136)

In the Senate April 21, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (S-119).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "B" (H-253) thereto, in non-concurrence.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I move that the Senate Recede and Concur.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

#### Non-concurrent Matter

Bill, "An Act to Create a Maine Film Board." (H. P. 1209) (L. D. 1424)

In the House May 5, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (H-284).

In the Senate May 6, 1981, the Minority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted.

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

Senator AULT: I move the Senate Adhere.

The PRESIDENT: The Senator from Kennebec, Senator Ault, moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I'd move that the Senate Recede and Concur with the House.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Conley, that the Senate Recede and Concur with the House, please rise in their places to be counted.

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

14 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion to Recede and Concur with the House does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

#### Non-concurrent Matter

Bill, "An Act to Reimburse Owners of Livestock, Poultry or Beehives which are Destroyed or Damaged by Dogs or Wild Animals." (S. P. 582) (L. D. 1558)

In the Senate May 1, 1981, Passed to be Engrossed as amended by Senate Amendment "A" (S-157).

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "A" as amended by House Amendment "A" (H-323) Thereto, in non-concurrence.

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Consideration.

#### Communications House of Representatives

May 7, 1981

Honorable May M. Ross  
Secretary of the Senate  
110th Legislature  
Augusta, Maine

Dear Madam Secretary:

The House voted today to Adhere to its former action on Bill "An Act Providing Collective Bargaining Rights to Legislative Employees" (H. P. 323) (L. D. 384)

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

Which was Read and Ordered Placed on File.

#### House of Representatives

May 7, 1981

Honorable May M. Ross  
Secretary of the Senate  
110th Legislature  
Augusta, Maine 04333

Dear Madam Secretary:

The House voted today to Adhere to its former action whereby it Indefinitely Postponed Bill "An Act to Amend the Maine Consumer Credit Code" (H. P. 394) (L. D. 437)

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

Which was Read and Ordered Placed on File.

#### Committee Reports House

##### Ought to Pass

The Committee on State Government on, Bill, "An Act to Facilitate the Leasing of Existing Subsidized Housing Units." (H. P. 809) (L. D. 970)

Reported that the same Ought to Pass.

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

The Committee on Taxation on, RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law. (H. P. 1387) (L. D. 1564)

Reported that the same Ought to Pass.

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

The Committee on Local and County Government on, RESOLVE, for Laying of County Taxes and Authorizing Expenditures of Somerset County for the Year 1981. (Emergency) (H. P. 1435) (L. D. 1580)

Reported pursuant to Joint Order (H. P. 264) that the same Ought to Pass.

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

Which Reports were Read and Accepted, in concurrence, and the Bill and Resolves Read Once and Tomorrow Assigned for Second Reading.

##### Ought to Pass — As Amended

The Committee on State Government on, Bill, "An Act to Provide for Municipal Development of Energy Resources." (H. P. 1150) (L. D. 1398)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-285).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" (H-326).

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

##### Ought to Pass in New Draft

The Committee on Transportation on, Bill, "An Act to Provide Reciprocal Fees and Charges for Trucks from Other States." (Emergency) (H. P. 991) (L. D. 1179)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1439) (L. D. 1581).

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

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

(Off Record Remarks)

##### Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Require Alcoholism Treatment Benefits in Health Insurance Policies." (H. P. 591) (L. D. 669)

Reported that the same Ought to Pass as

amended by Committee Amendment "A" (H-315).

Signed:

Senators:

SUTTON of Oxford  
SEWALL of Lincoln

Representatives:

GAVETT of Orono  
JACKSON of Yarmouth  
GWADOSKY of Fairfield  
BRANNIGAN of Portland  
POULIOT of Lewiston  
TELOW of Lewiston  
PERKINS of Brooksville

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (H-316).

Signed:

Senator:

CLARK of Cumberland

Representatives:

RACINE of Biddeford  
FITZGERALD of Waterville  
MARTIN of Van Buren

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-315).

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: I move we Accept the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Oxford, Senator Sutton, moves that the Senate Accept the Majority Ought to Pass, as amended. Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President. Mr. President and Men and Women of the Senate, something's on the blink over here on my desk. Probably it's been burdened by so many papers that it's all squashed up inside.

Obviously, my name is on the Minority Ought to Pass with Committee Amendment "B". I would simply take, ever so few minutes, this afternoon to tell you why I felt that I had to sign a slight variation from the Majority Ought to Pass, as amended by Committee Amendment "A" Report.

While I do acknowledge that this may be what is perceived as a somewhat futile effort, it has been experience, and my education relative to the treatment of alcoholism, that alcoholics: number one, should be recipients of the third party reimbursement as other diseases are, but that alcoholism is unique to the extent that only those advanced cases which find their ways into other health difficulties, and bodily malfunctions, are in fact, reimbursed within the medical facilities available and contained within Committee Amendment "A".

If you look at Committee Amendment "B" under filing number H-316, you will see that indeed, people who suffer from alcoholism, which in a sense is not always regarded as a respectable disease, but sometimes a self-inflicted disease, would receive reimbursement through the third party pay process if they sought treatment for their disease in other than a medical facility, as we perceive medical facilities statutorily under current State law.

That's the difference between these two Bills. The Statement of Fact says it rather succinctly. I don't believe it's necessary for me to elaborate to any great extent, although I feel that I should.

I would hope that you may consider the difference here and that perhaps you would consider that the Minority Ought to Pass Report with Committee Amendment "B" has considerable merit when we look to the extent to which alcoholism and its ramifications and effects on our society are being addressed today. Alcoholics in the early stages of the development of their disease will not seek treatment at hospitals. If treatment is available at sites

by certified personnel licensed by the State of Maine, in other sites, then bricks and mortar medical facilities, then, I think that we should act responsibility and address that issue.

The fact that they would seek treatment at sites other than medical facilities would be a very positive step, and obviously, in the right direction. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Just briefly, Mr. President, I don't certainly have a lot of quarrel with my good colleague and good lady from Cumberland, Senator Clark, but I'd just like to briefly explain to you the Majority of the Committee's thoughts on this subject and why we came out with the different report.

First of all, the costs. Right now, of alcoholism benefits are available from both Blue Cross and Blue Shield on a group basis of 50 or more and from private carriers.

The cost of that rider would go up 17%, if we passed the Second Committee Amendment and allowed physicians and psychiatrists to be involved in this situation.

By the way, the Bill in what it's trying to do, is among other things, in lower the qualifications from 50 to 0 as far as group coverage being available. Right now Blue Cross/Blue Shield has cost control and oversight over licensed facilities. The main thing the Committee was concerned with is that people who were seeking help through the licensed facility and were also somewhat concerned with the cost containment.

Without getting into a lot of detail on it, because I don't really feel qualified, there is some question as to whether all physicians and psychiatrists are capable and certainly whether they are specialists in the care of alcoholics. And, of course if we went with Committee Amendment "B", a person seeking aid could go with third party payment, of course, they can do it now anyway, to any physician or psychiatrist.

So right now the coverage is available, it will be available all the way down for any size group. We are very concerned that it be done in a licensed facility. Those who want to go to a private physician or psychiatrist can. By the way, with the private plans, they can do it now with 50% reimbursement.

I would ask that you support the Committee Amendment.

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

Senator CLARK: Mr. President, obviously that esteemed gentleman from Oxford County, the Chair of the Committee of Business Legislation, and I do not disagree on the main impact that this Bill would have.

Committee Amendment "B" reflects one additional feature that I neglected to bring to your attention, and that is that it requires that optional alcoholism benefits be offered to policyholders in what is called, a positive check-off thing if they don't wish it.

I have in my hands a brochure or pamphlet that is provided to potential subscribers of the Blue Cross/Blue Shield program dealing with substance abuse treatment rider. It is that allegation of the professionals in the alcoholism treatment programs across the State, that even though groups are offered this rider, and we have unanimously within Committee lowered the membership of groups from 50 to 0 as we did for optometrist coverage and chiropractic coverage, that in fact, this may not be offered to the people with any degree of viability. I really don't know if that's the right word, but it may be offered in such a way that groups who are negotiating their medical coverage contracts may not truly be aware that this option is available.

Committee Amendment "B" has what we call sort of a negative check-off, that the coverage would be available if they did not disclaim their need for the coverage.

As of 1980, 14 states mandated health insurance policies cover alcoholism treatment, and another 15 states required that optional alcoholism benefits be offered to policyholders.

Regardless of which Report we accept today, I am proud that this State is addressing the issue, and I am equally proud of the Committee on Business Legislation, which has unanimously endorsed, at least, the optional alcoholism treatment benefits rider. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Ladies and Gentleman of the Senate. The good Senator from Cumberland, Senator Clark, did make one correction before she was done, that I was going to point out to you. She started out by calling it a positive check-off, and it is in essence a negative check-off. That was on of concerns, by the way, There's no other option or type of policy where the person who is being offered it, has to sign that they don't want it or else they get it. That's not the way to play the ballgame.

The other thing that really we are concerned about alcoholism, and we are concerned that if we go with Committee Amendment "B", it could have a negative affect on groups picking it and putting it as part of their policy.

They've just got so many dollars to spend, and the alcoholism, which everybody doesn't feel as strongly about as others, is too expensive, then there is some concern that they might not pick that option. So, we're hoping that you will go with Committee Amendment "A" because we think it is a positive step in the whole substantive abuse problem. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor or the motion by the Senator from Oxford, Senator Sutton, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee, please rise in their places to be counted.

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

17 Senators having voted in the affirmative, and 9 Senators having voted in the negative, the motion to Accept the Majority Ought to Pass, as amended by Committee Amendment "A", Report of the Committee, in concurrence, does prevail.

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

#### Divided Report

Seven Members of the Committee on Judiciary on, Bill, "An Act to Protect Privacy in Divorce and Child Custody Actions." (H.P. 864) (L.D. 1025)

Reported in Report "A" that the same Ought to Pass as amended by Committee Amendment "A" (H-308).

Signed:

Senators:

CONLEY of Cumberland  
KERRY of York

Representatives:

HOBBINS of Saco  
BENOIT of South Portland  
JOYCE of Portland  
O'ROURKE of Camden  
SOULE of Westbrook

Four Members of the same Committee on the same subject matter Reported in Report "B" that the same Ought to Pass as amended by Committee Amendment "B" (H-309).

Signed:

Senator:

DEVOE of Penobscot

Representatives:

LIVESAY of Brunswick  
DRINKWATER of Belfast  
LUND of Augusta

Two Members of the same Committee on the

same subject matter reported in Report "C" that the same Ought Not to Pass.

Signed:

Representatives:

REEVES of Newport

CARRIER of Westbrook

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-308).

Which Reports were Read.

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

Senator DEVOE: Thank you, Mr. President. Mr. President Members of the Senate, I move the Senate Accept Committee Report "B" with the filing number H 309 and would speak to my motion.

The PRESIDENT: Senator has the floor.

Senator DEVOE: Thank you very much, Mr. President. Members of the Senate, this bill deals with divorce hearings.

The present law does not contain any provisions in it for having these hearings away from public scrutiny. There have been many times in the past, where people have had unusually lurid details come out in a divorce hearing, and you have the courtroom filled with five or ten people, or twenty, or thirty, or forty people, who may either have other business pending in the court, or are just there as curiosity seekers.

Now the difference between the two Committee Reports is this. The report that passed in the other Body provided that upon the request of both parties, or one of the parties if the other party were not represented by an attorney, that the court shall hold it in the courtroom, but in private with members of the public excluded.

I happened to sign the Committee Report. Committee Report "B", which provides that the court may, upon the request of the parties, hold it in private. It leaves it discretionary with the court. My reason for doing that, is that I recognize, having represented not a lot of people in divorce actions, but enough to know that many times there are extremely sensitive details about the person's private life that end up being discussed in court that, for a variety of reasons, would be just as well expressed before the judge. There is no social good by having members of the general public there, who just happen to be there because they have their own case that's pending, or they're just there as a curiosity seeker.

So, I felt that it would be a reasonable change in the law to provide that upon explanation to the court by the attorneys involved in the case. The court could then exercise its discretion as to whether or not the circumstances of this particular case warranted members of the public.

Shortly after the Bill was introduced, I received a very fine letter from an active retired judge of the District Court, Judge Edwin Smith from Bar Harbor, who gave me some insights into the matter, that I would like to share with you.

He said, attorney's may very likely favor the convenience and informality of private hearings, but there is a far more important consideration. I refer to the dignity and public responsibility required of, an inherently imposed upon a judge in public judicial proceedings. A judge's decision should be based on publicly given testimony formally received under circumstances where the judge's conduct and attitudes are subject to public scrutiny.

The public has a legitimate interest in observing how judges perform their duties.

It was only a few years ago that the Maine Supreme Court, by Rule, changed the old custom of hearing divorces in chambers and required that they be heard in open court.

I believe very strongly in the principle of open courts and judicial public responsibility. Those reasons far out weight the protection of privacy in the relatively small number of cases where parties might be embarrassed by testi-

monial details of domestic infelicity.

Now, Members of the Senate, those are my reasons for signing the Report as I did. I recognize that there are certain instances, where due to the nature of the problems between the husband and the wife, there are details that are going to be harmful to further family life, harmful to the children, harmful to each of the parties involved. When the judge is apprised of those details, I think it is a reasonable step for that judge, in the exercise of his discretion, to be able to have the hearing in court, but in private, without hangers-on and curiosity seekers sitting around just waiting for lurid details to come along.

I think, as a matter of public policy, it is not, and there can not be made an argument, as a matter of public policy all over this State, that every divorce upon the request of an attorney, be made closed to the public. Thank you very much, Mr. President.

When to Roll Call is taken, I request that it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, the good Senator from Penobscot, Senator Devoe, has discussed the Bill before us, stating that the judge shall have discretion as to whether or not a divorce proceeding shall be closed or open to the public.

I have never faced divorce, or up to this present time and day anyway, but I have talked to many of my friends, both male and female, who have been through the courts, and I have certainly had an experience not too long ago, in one of our district courts, where I was present in one of those little flying jobs of mine, because of the fact that district attorney was not ready to proceed with my case at that time, the judge then moved toward the civil docket. I would state that there were 30 people, along with myself, sitting in the courtroom when this very charming young lady was placed on the stand to go through, in this particular case, an uncontested divorce hearing. Uncontested, but she has to go through the ritual. The questions are asked of her by both her attorney and the judge, and here are 30 of us sitting around the courtroom listening to what this poor young woman has to respond to.

I don't think it's none of my business. I wasn't invited to her wedding, and I sure as the Devil should not be invited to this proceeding in an open court. In fact, I think, perhaps, most of the attorneys here feel very strongly that divorce cases shouldn't even be held in the district court, at one time they were held in the superior court. At least when they were in the superior court, they were a little bit more out of the way. Now, they're downstairs in the district court, and probably, some idea will come down the pike of moving them into the judge of probate where his office is stuck off some place in the left wing of some building that nobody knows anything about.

The fact is that what we're talking about is getting them away from the public. I don't believe it's the public's business to be involved in a domestic problem that has been encountered by two people, whether it's an irreconcilable difference, or whatever the case may be.

The good Senator from Penobscot Devoe, has clearly stated that many times things come out in these divorce hearings, that are really difficult. Difficult for both parties. When is the judge going to close the hearing, after the things have been stated? Now, that the public is there, we're not going to let them hear chapter 4. They've got chapters 1, 2 and 3. We're going to shut the thing off.

I think 2 adults, who have children and who come to these serious problems and a divorce is a very big step in ones life, should have the privacy that they're entitled to. The vast majority of the membership of the Judiciary Com-

mittee agrees.

The judges are not there to serve themselves and attorneys. They're there to serve the public. The proceedings that take place in this particular divorce case are a matter of the public records and can be looked at after the divorce is either granted or denied. There is no reason for people to be in that courtroom.

I will now give you another example that just happened recently.

One of the members of the judiciary, an attorney, appeared in court early this morning, walked into the courtroom and saw two of his friends about to have a divorce hearing. The female is a school teacher, and guess what. All of a sudden appeared in the courtroom, in the district court this morning, is the fourth grade class of some little school. It was their day to appear to see how the judiciary works, and they all came in and sat down to watch these proceedings. The mother who is in there on a divorce has a child in that fourth grade classroom. Now, that's nice for these youngsters to all be there and say well that's Johnny Jones's mother that's being divorced and his father today, that's getting divorced. That ought to be interesting.

The judges are to serve the public. I think that anyone with good conscience can say, well let it be private. Let it be private.

I recall another incident several years ago, and it's one of the reasons that I am so strong on this particular bill. I believe the other members who signed the Ought to Pass Report are so strong on this Bill. When divorce cases were once heard in the Superior Court, in the County of Cumberland, Friday afternoon county employees don't have much to do. We had a very prominent person in our community who are getting a divorce that particular day. Well, they thought that this was good time to have a field day. Let's go up and hear all the problems that these two individuals encountered over a span of their life, and what has brought on this divorce.

I think there's dignity that has to be given, even though a stage that comes about in life, that one party or the other should have the right to request that this be held private. As I said, the recordings are a public instrument and can be reviewed to any busybody who may have some interest once the hearing is closed.

I would urge the Senate to accept the Majority Ought to Pass Report.

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

Senator COLLINS: Mr. President, when I started to practice law many years ago, divorces were held in private. That continued to be the case for about the first 10 years of my practice, and I handled many such divorces at that time. Then apparently there developed a bad situation in the County of Cumberland, where the judges were fearful of collusions between parties and were sensitive to the criticism from the public, from the press, concerning what was really happening behind closed doors, and was the hypocrisy of divorce proceeding really getting enough scrutiny out in the open.

So, the change was made, and we've been with the present system of open court, I think, for nearly 20 years. In that period of time, the nature of divorce has had a very radical change in the State of Maine. Shortly before I came to the Legislature, the Legislature saw fit to make divorce almost a no fault process. When that very radical change was made in the policy of this State, the nature of divorce proceedings changed. A great deal of the hypocrisy in divorce proceedings was removed.

That's not to say that divorce proceedings are any better or any more noble than they were, and divorce is never a pleasant topic, but, nonetheless, it's an important part of our judicial process, these days, in terms of volume.

I am sort of a middle of the road type of

person in these areas. I have a great respect for that part of our Constitution, that talks about the separation of powers. My personal view is that in the Legislature is limited by the Constitution as to how far it may go in regulating the internal procedures of the Judicial Department. We do regulate those procedures extensively. We've gotten along extremely well as a State between the 2 branches, the Legislative and Judicial. When Codes of Procedure were adopted and Codes of Evidence were adopted, they were first worked out by the courts, but they were submitted to the Legislature for review. Then the Legislature accepted them and put them into our statutory materials to some degree.

Now, this is one of those cases where there is a balancing of interests, and it's a very close balance for me. I supported the idea of encouraging privacy, and I supported it for 2 reasons. One being the nature of the change in our divorce law. It becomes now much more a matter of dissolving a civil contract between 2 people. Secondly, it becomes, in some cases, a matter of determining the future of children. I have a great sensitivity about the role of children in these proceedings, what happens in the gossip mills and back at the schools. I guess it's largely because of my concern for the role of children that I lean to the privacy of these proceedings. Many of them of course are very cut and dried, and routine, and probably as many as 98 percent of our divorces are really not very traumatic in terms of how they appear to the public. But, that small percentage which are traumatic to the parties, and which appear to be that way to the public, this is the question. Do we protect the interest in privacy? There's very little left in this world, but there is little. Do we protect that interest in privacy or do we place the emphasis with Judge Smith in the public right to know about these things and to observe the demeanor of the judge?

I submit with respect to Judge Smith's observation that there is ample opportunity for the public to judge the conduct of the members of the judiciary and what they do over and beyond the role of divorce. Divorce is only one of the many topics that they treat.

So, I do not place such great weight in that argument. Again, I look at the Constitution, and I see the importance of not going too far into the judicial domain in telling them what to do.

I think, at times, the public perception, as known by the Legislature, is perhaps more acute and more reflective of the public view, than is known by the judiciary, and, therefore, it becomes our role, as Legislators, to transmit to the judiciary, a message, as to what the public prefers in its judicial standards and proceedings.

That's why I am supporting this message to the judiciary. I conceive, and my brother from Penobscot may not agree with me, I haven't had a chance to discuss it with him, but I conceive that if the Majority Report is Adopted, that, even then, the basic inherent power of the court to order its own procedures would permit it, in unusual cases, to open its proceedings to the public, or to witnesses that the court itself might call.

I can recall years ago in my county a case, where the judge suspected that there had not been sufficient attention given to the future role of the children who were being fought over for custody. He ordered the proceedings halted until he could appoint an investigator, a social worker, to go out and verify the facts so that he would really know whether what was being presented in his court was adequate for him to make a decision. I think a judge inherently has that power and would retain that power even if the Majority Report were to be Adopted.

It says "no other people, except witnesses, court officers, attorneys and parties," but, under that word "witnesses", the court itself has the right to call witnesses when it feels that

it needs additional information to help it make that decision.

So, I do not see the Majority Report as being a complete straight jacket for the judiciary. It certainly is a strong message. In many ways, I wish we didn't need to send that strong a message. I can understand the view of the Senator from Penobscot that he would wish that message to be much more gentle.

I think on the whole, as I balance these interests, the interests of the public in knowing and seeing that a standard is observed, and the interest in the private parties in settling their own affairs as they, themselves, agree they shall be settled.

You must remember that this privacy doesn't occur unless both parties and their attorneys want it that way. I think that in those very, very rare cases, where the public interest might be better served to have something opened up and aired out, I think the courts will still have that kind of authority. And, therefore, I think I will come down on the side of the Majority Report. Thank you.

The PRESIDENT: 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 a risen a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from Penobscot, Senator Devoe that the Senate Accept the Minority Report "B" of the Committee.

A Yes vote will be in favor of Accepting Report "B" of the Committee.

A No vote will be opposed.

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

#### ROLL CALL

YEA—Devoe, Huber, Sutton.

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Dutremble, Emerson, Gill, Hichens, Kerry, McBreaity, Minkowsky, Najarian, O'Leary, Pray, Redmond, Sewall, C.; Shute, Teague, Trafton, Trozky, Violette, Wood.

ABSENT—Perkins, Pierce, Usher.

A Roll Call was had.

3 Senators having voted in the affirmative and 26 Senators in the negative, with 3 Senators being absent, the motion to Accept Report "B" does not prevail.

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

#### Senate

##### Leave to Withdraw

Senator McBREAIRTY for the Committee on Energy and Natural Resources on,

Bill, "An Act to Facilitate and Improve Decision Making by the Board of Environmental Protection." (S.P. 421) (L.D. 1245)

Reported that the same be granted Leave to Withdraw.

Senator EMERSON for the Committee on Taxation on,

Bill, "An Act to Exempt Family Burying Grounds from Property Tax." (S.P. 149) (L.D. 357)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted. Sent down for concurrence.

##### Ought to Pass

Senator GILL for the Committee on Health and Institutional Services on, Bill, "An Act to Adopt Revised Standards for Access by the Handicapped to Certain Buildings." (S.P. 495) (L.D. 1395)

Reported that the same Ought to Pass. Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

##### Ought to Pass — As Amended

Senator McBREAIRTY for the Committee on Energy and Natural Resources on, Bill, "An Act Requiring Efficiency in Buildings Financed with Public Funds." (S.P. 480) (L.D. 1363)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 183)

Senator CONLEY for the Committee on Judiciary on, Bill, "An Act to Reorganize Certain Chapters of the Maine Criminal Code." (S.P. 280) (L.D. 811)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 182).

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as amended, Tomorrow Assigned for Second Reading.

##### Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act to Amend the Maine Consumer Credit Code with Respect to Consumer Credit Sales." (S. P. 276) (L. D. 785)

Signed:

Sensors:

SEWALL of Lincoln  
CLARK of Cumberland

Representatives:

BRANNIGAN of Portland  
RACINE of Biddeford  
JACKSON of Yarmouth  
GWADOSKY of Fairfield  
FITZGERALD of Waterville  
POULIOT of Lewiston  
PERKINS of Brooksville  
TELOW of Lewiston  
GAVETT of Orono

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

Signed:

Sensor:

SUTTON of Oxford

Which Reports were Read.

On motion by Senator Sewall of Lincoln, the Majority Ought to Pass, as amended, Report of the Committee Accepted and the Bill Read Once. Committee Amendment "A" Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

##### Second Readers

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

##### House

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1981. (Emergency) (H. P. 1358) (L. D. 1540)

Which was Read a Second Time.

On motion by Senator Collins of Knox, Tabled until May 13, 1981, pending Passage to be Engrossed.

Bill, "An Act Relating to Frozen Dessert Products." (H. P. 1427) (L. D. 1578)

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

##### House — As Amended

Bill, "An Act to Remove Private Babysitting Arrangements from the Jurisdiction of the Department of Human Services." (H. P. 796) (L. D. 950)

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

Bill, "An Act Creating the Maine Clean Indoor Air Act." (H. P. 347) (L. D. 395)

Which was Read a Second Time.

On motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Bill, "An Act Relating to the Public Utilities Commission Officials' and Employees' Compensation." (H. P. 577) (L. D. 657)

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

Sent down for concurrence.

Bill, "An Act to Permit Persons 15 Years of Age and Older to Work until 10 P.M." (H. P. 877) (L. D. 1046)

Which was Read a Second Time.

On motion by Senator Sewall of Lincoln, the Senate voted to Reconsider its action whereby it Adopted Committee Amendment "A".

The PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you, Mr. President. I move the Indefinite Postponement of Committee Amendment "A" and would speak briefly.

The PRESIDENT: The Senator from Lincoln, Senator Sewall, moves that the Senate Indefinitely Postpone Committee Amendment "A".

The Senator has the floor.

Senator SEWALL: It appears that yesterday, we had the Committee Amendment and then there was a House Amendment the same time. They are in conflict. We're in agreement on the House Amendment, so we'd like to now disperse with the Committee Amendment.

On motion by Senator Sewall of Lincoln, Committee Amendment "A" was Indefinitely Postponed.

Which was Passed to be Engrossed, as amended, in concurrence.

#### Senate

Bill, "An Act to Further Exempt Certain Benevolent Organizations from the Employment Security Law." (S. P. 253) (L. D. 722)

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

Sent down for concurrence.

#### Enactors

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

AN ACT to Provide for Recovery of Unemployment Compensation Overpayments over a Reasonable Period of Time. (H. P. 664) (L. D. 768)

AN ACT to Establish Truck Volume Labeling for Certain Wood By-Products. (H. P. 832) (L. D. 999)

AN ACT Relating to Unfair Wage Agreements under Employment Practices Law. (H. P. 915) (L. D. 1081)

AN ACT Relating to the Clarification, Consistency and Improved Administration of the Employment Security Law. (H. P. 950) (L. D. 1126)

AN ACT to Revise the State Personnel System. (H. P. 1395) (L. D. 1566)

AN ACT to Amend the Criminal Code and Related Criminal Laws. (S. P. 444) (L. D. 1282)

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

AN ACT to Abolish the Position of Elected County Treasurer in Penobscot County and Replace it with an Appointed Treasurer (S. P. 43) (L. D. 44)

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: Mr. President, Penobscot County isn't my home county, but I am concerned with the direction that this Bill is going in. It removes one more person from the elective process. I know we've seen before us



bill, after bill, after bill that removes people from elective processes. I feel strongly about it.

I move the Indefinite Postponement of this Bill and all its accompanying papers.

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

Senator AULT: Mr. President and Members of the Senate, as a member of the Local and County Government Committee that reported this bill out, I shared, and the rest of the Committee shared, the Senator's concerned about taking elective office away from the people. That's why we did add the referendum onto the Bill to allow them to say whether they wanted to do so or not. I hope you'd vote against Indefinite Postponement.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Oxford, Senator O'Leary, that LD 44 be Indefinitely Postponed, please rise in their places to be counted.

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

4 Senators having voted in the affirmative, and 20 Senators having voted in the negative, the motion to Indefinitely Postpone LD 44 does not prevail.

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

#### Emergency

AN ACT to Amend the Charter of the Kennebec Light and Power District. (H.P. 951) (L.D. 1127)

This being an emergency measure and having received the affirmative votes of 25 members of the Senate with No Senators having voted in the negative, was Passed to be enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Orders of the Day

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

SENATE REPORT — from the Committee on Agriculture — Bill, "An Act to Promote the Maine Potato Industry." (S.P. 517) (L.D. 1439) Leave to Withdraw

Tabled—May 6, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Report.

On motion by Senator Collins of Knox, retabled for 1 Legislative Day.

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

SENATE REPORTS — from the Committee on Judiciary — Bill, "An Act to Include the Term 'Sexual or Affectional Orientation' in the Maine Human Rights Act." (S.P. 331) (L.D. 961) MAJORITY REPORT Ought Not to Pass; MINORITY REPORT Ought to Pass.

Tabled—May 7, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator DEVOE: Thank you very much, Mr. President. Mr. President and Members of the Senate, I move the Acceptance of the Majority Ought Not to Pass Report and would speak to my motion.

The PRESIDENT: The Senator has the floor. Senator DEVOE: Thank you, Mr. President. Members of the Senate, this Bill has been an extremely difficult Bill to consider, because it's a situation where, many of us on the committee, and I think many of you here in this Body, have conflicting emotions and conflicting thoughts. It's a situation where, for many people, your heart wants to go one way and your mind wants to go another way.

I think the reason I came down on the Majori-

ty Ought Not to Pass Report, after much thought and deliberation, was that for the first time, we would be asked to put into the statute a behavioral position, which we're asking acceptance of. If you take the time and the trouble to look at the Human Rights Act, you will find that it deals with employment, housing. These are things that are objective in nature. Discrimination on the grounds of sex, that's prohibited, and I think rightly so.

Here, we are being asked to place under the statutes of this State a standard which deals with behavior. It has nothing to do with race, color, creed, or sex, or national origin. It deals with behavior. I think that's the key reason why I opposed this Bill, after much deliberation.

I think we also have to consider that there is a matter of public perception that is involved in this issue. We know that when we decriminalized marijuana, there was a perception by many members of the public, that it was no longer criminal to use marijuana. That wasn't what the law said. That was the public perception. Whether we like it or not, I think we have to admit that.

If this Bill were to pass in its present form, it will be, perhaps wrongly, but nevertheless it is a fact, it will be perceived and interpreted by the general public, that the Legislature is favoring homosexual activity. That will not be the case, but we have to take that into consideration when we vote on this matter.

We're asking the Human Rights Commission to become the group in the State to carry the ball for enforcing the rights of a behavioral minority.

Mr. President, for these reasons, I move that the Majority Ought Not to Pass Report be Accepted.

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

Senator CONLEY: Mr. President and Members of the Senate, I am the sponsor of this bill. I might say that I used a, and I'm ashamed, that I am the sponsor of this Bill. I'm ashamed that legislation such as this has to be introduced into the Maine Legislature, that the citizens of this State would be given the same human rights that are justifiably yours and mine.

There should be no need for this legislation. LD 961 is very simple bill. It would include the term "Sexual or Affectional Orientation" in the Maine Human Rights Act. The effect of this would be to make it unlawful to discriminate against a person in the areas of employment, housing, access to public accommodations and credit, merely on the grounds of that person's Sexual or Affectional Orientation.

It's that simple.

It's a Human Rights Act. It's not, as some would have you believe, an act to promote homosexuality. I do not promote homosexuality. The legislature will not be promoting homosexuality. It does not give this Legislature's stamp of approval to gay lifestyles.

It does say to all our people, straight and gay, that in the eyes of the law, we all share these basic rights. To a roof over our heads, a livelihood, participation in our economic system.

Some may say that we will be fostering homosexuality. Encouraging it, by this bill. Let me remind you there have been homosexuals throughout history. Whether tolerated or persecuted, gays have always made up a certain portion of our society. Since Kinsey did his studies, we've known that approximately 10% of the American people are homosexual. This is a fact that will not go away. Based on the report and applying those statistics to Maine would mean approximately 100,000 citizens of this state are homosexuals.

Throughout history, homosexuals have led productive lives. I'm sure each of you, like myself, is a friend or knows some gay people, and you know them to be as hardworking, dedicated, and as stable as the rest of us. Doubtless they will continue to be so, in spite of great

intolerance, whether we pass this Legislation or not, all human beings deserve the same human rights, the same rights as you, or me, or any other minority.

Without this bill, gays, won't enjoy those basic civil liberties, we heard testimony at the hearing the last time the bill was presented in another session, by a young woman who was fired because her boss discovered she was gay when she declined his advances. She hadn't made an issue of her sexual preference, but she lost her job nonetheless.

In another incident a person was asked about her job qualifications for a mere 15 minutes in her job interview, and then was drilled for two hours about her sexual orientation. Needless to say, she was discouraged from pursuing that job.

A gay person in Belfast testified that his house was stoned last year. Some folks were merely upset with some of his public positions, but the kind of hate that resorts to throwing stones into people's houses doesn't say much for the decency of those opponents. Because homosexuals have no legal remedy for this kind of persecution, they live in constant fear that some unguarded action might reveal to their co-workers, or boss, or landlord, or realtor that they're gay.

Now there are some who will tell you we cannot permit homosexuals to teach in the schools. Don't they know that gays are teaching in our schools right now? Always have been. Apparently no one has noticed the difference. That sexuality is irrelevant to a teacher's job performance has been pointed out by the United Federation of Teachers as well as the American Federation of Teachers.

The argument is given that these people will molest our children, for one thing you can be sure that where it's known, they are watched more closely than their straight counterparts, and frankly, as the father of a lovely 14 year old daughter, I'd worry more about some male heterosexual teacher taking liberties with her and when you lay sensationalism aside, the day-in, day-out statistics bear me out. Most of what we might call rape or molesting of children is done by heterosexuals.

I would state that this is a very emotional bill and I think that looking at this discrimination in an historical perspective may help us all to let emotion give ground to reason.

It is no secret that Jews have been persecuted since early Biblical days: It is no secret that when my father was growing up on the streets of Portland that "Help Wanted" signs in some city businesses donned the caveat "Irish Catholic Need Not Apply"; It is no secret that until the late 1960's the black parents of this country were forced to send their children to segregated, substandard schools, and they, themselves, were forced to ride in the backs of buses for no reason other than the color of their skin: It is no secret that women have not been given the same opportunities as men.

All of these injustices are being corrected for the most part, and, in the ever growing shadow of history it is hard to believe that they were ever tolerated or condoned, but for the victims of these instances of discrimination, though they have been given full citizenship which was rightfully theirs from the beginning, the hurt still lingers, and for gay members of our Maine communities the pain is more immediate, for it is no secret that unlike the Jews of history, the Irish of old, the Blacks of late, or the women of the 70's, they are still discriminated against. They do not enjoy the full rights of American citizenship which are as rightfully theirs as they are yours or mine.

Ladies and Gentlemen of this Senate, it is time to open our minds and be sensitive to the humiliation and unfair treatment which these people have been subjected to over the years. It is time to lay prejudice and bias aside and let the values of justice and equality guide us in



this moment of decision.

It is time for us to realize that there are some things in life which we may neither understand nor have the power to change, but which we are obligated to sanction and protect because of a deep belief in individual freedom and the power of a man or woman to make his or her own decisions in life. Let these be the rays of light which guide us today, and let the faulty reasoning, which has permitted us to label homosexuals with the ugly badge of discrimination, be swept into the shadows of history along with the similar types of reasoning behind the discrimination against the Jews, the Irish, the Black and the women. This is where it rightfully belongs.

I would urge this Senate to vote against the pending motion.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: I would like to just, I couldn't agree more heartily with the good Senator from Cumberland, Senator Conley. I commend the strength of his convictions in submitting this Legislation.

I also would like to quote from the minister of my church, when he gave testimony to the Committee. His name is Reverend Douglas Morgan Strong. I won't bore you with all of the details of his letter, but he does have some good points to make that I would like to share with you.

He is talking about hating. "What is the desperate need that some people have to continue hating? Last month, one of the leaders of the moral majority in San Francisco stated, the only good gay is a dead gay. During the McCarthy years, it was 'kill a commie for Christ.' Even in our own New England history, we look at horror at the Salem witch hunts. The victims more than not were young girls, who the eager crowd wanted to hang, or burn, or mutilate, all in the name of Christianity.

The task before you is an arduous one, for you will have to determine if homosexuals are human. For to not pass this Legislation will mean two things. One, that in the eyes of the law, homosexuals are not fully human. The second is equally serious. Not passing this Legislation means that we are reinforcing and nourishing people's needs to have a hate group. It means that is okay to hunt out, attack, harass, mistreat 10 percent of our population, neighbors, parents, friends.

I speak as a religious leader to invite you to help transcend the need people have to hate, to not buy into their perversion, their sin, their ugly, sick need to hate some persons." Thank you.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, Ladies and Gentlemen of the Senate, I hadn't wanted to get involved in this debate or issue. I thought long and hard about it. The good proponents of the Bill say, let's not be emotional. The rhetoric I've heard so far is nothing but emotion.

The good Senator from Cumberland, Senator Conley, said that there is no need for this Bill. He's absolutely correct. There is no need for this bill. It's inconceivable to me that we would be even discussing the possibility of adding this new dimension to our current Human Rights Law. Race is understandable. Color is understandable. Creed is understandable. Sex, in the context that's it now in the law, is understandable. Homosexuality, as part of the Human Rights Law, is completely not understandable.

I've heard all this about hate. This has nothing to do with hate. This Bill is not a bill to eliminate hate. I detest hate as much as anyone does here. This Bill is not going to do away with hate. It's not going to do away with discrimination of homosexuals.

We should have the right to choose a minister of our church who is not a homosexual, if we so

desire. Maybe not because he's black, maybe not because it's a woman minister, maybe not because they're of a different branch of our particular religious philosophy, but certainly we must have the right to reject them if we want to, because they're homosexuals. It doesn't mean that we can not accept them as our minister, if they are. The good Senator's right, I bet there's very few of us that don't have homosexual friends, and some good friends.

That's not what we're talking about and that's not what this Bill is about. All the horror stories that I've heard are not going to be corrected by this Bill. God knows I wish they could be corrected. I wish I thought this Bill could correct them. I don't believe they can. I don't feel comfortable objecting to the intent of this Legislation, at all. I can not, in good conscience, accept it. I hope you can't either.

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

Senator HICHENS: Mr. President, as I thought about this Bill, I weighed in my own mind and conscience as to whether I should mention the Holy Bible. Yesterday we received a letter from the Catholic Diocese in Portland. Today we have another one from the priests advocating acceptance of this Bill. I feel that I should refer to the Holy Bible, which clearly defines the laws regarding man's relationship with women, men's relationship with man, and women's relationship with women. On the other hand, we cannot condone the actions of homosexuals and lesbians.

We have this letter from the Senate of Priests, quoting the pastoral letter, "to live in Jesus Christ."

I think you are all familiar with the story of the woman who was brought before Christ for committing adultery, and was going to be stoned to death, and how Christ faced the crown and got down, and wrote something in the sand, and then got up and made the statement that those who have not sinned cast the first stone. The crowd melted away. As he stood alone with the woman, he said, "They do not condemn thee, neither do I condemn thee." Then he added, "Go and sin no more."

I would not endorse the throwing of stones, but I do not feel that we should recognize these people who ignore God's laws as accepted members of our society. The Diocese of Portland has stressed that these people are victims of weakness. There are others who have a weakness, some to steal, some to lie, and some to do other things which are against our law and the Ten Commandments. The law says we should not steal as well as other categories in the books of our courts.

I do not hate homosexuals, but I do not want my children and my grandchildren to grow up believing that such practices are an accepted part of our life.

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

Senator NAJARIAN: Mr. President and Members of the Senate, I don't see the good Senator from Oxford in his seat, but as he spoke, I couldn't help but wonder what the members of his church might require of a minister, or what his or her duties might be, that a person's sexual preference might be a strong consideration.

I thought that it might be helpful to remind the Senate of what the preamble of the Human Rights Act that's currently in our statutes. It states, "it is the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity and the causes of such practices, so the corrective measures may, where possible, be promptly recommended and implemented."

Well, corrective measures are necessary in this instance, and that they're being recommended. It's up to us now to implement. In the nine years since I've been in the Legislature, this Human Rights Act has been amended in

practically every regular session. For one more category of condition of human life that society has unfairly discriminated against. In 1973, it was discrimination because of sex was prohibited. In 1977, physical handicaps, 1979, discrimination in employment because of age, which had to do with our mandatory retirement age.

Homosexuality is one of the few remaining human conditions affecting significant numbers of our population, for which this State still allows discrimination in housing, and employment, and credit, and public accommodations, etc. There is one other I might mention, and that's children in housing, which we have widespread discrimination against.

Every time that we fail to pass this Legislation, we are, in effect, telling the public that it's okay to discriminate against homosexuals in housing and in employment. Since at least the days of Franklin Roosevelt, it has been the policy of this land that every American is entitled to decent, affordable housing, and surely no one is saying that homosexuals are not Americans. I'm sure there are some who believe that homosexuality is un-American, but that has nothing to do with this issue.

Every candidate for elective office of both parties at the State and Federal level as far back as I can remember, has preached the importance and value and benefits that work, jobs for everyone fit and able. Everyone needs a roof over their heads and someplace to go Monday morning.

I heard many people here say, I heard one good Senator from Penobscot, Senator Devoe say, that, oh sorry. Some people believe that if we practice discrimination against homosexuals, perhaps it will go away. In other words, if we make life tough enough for them, subject them to ridicule, and show them our contempt, they will change their errant ways.

On the other hand, as the good Senator from Penobscot, Senator Devoe, said, if we prohibit discrimination based on sexual preference, if we ease up, back off in the slightest way, we will somehow be perceived as condoning homosexuality. Others think that perhaps then it will flourish. Everyone will want to convert.

Actually, we know very little about the condition of homosexuality. In spite of centuries of medical and psychiatric investigations, its causes still remain profoundly mysterious. Psychiatrists today appear to be in agreement on one aspect of homosexuality. That is, that conversion to heterosexuality is about as likely to occur as frogs turning to handsome princes.

For years, the mentally ill were abused and avoided because of fear and ignorance. The mentally retarded, until relatively recently, were hidden from public view and rejected because their families were ashamed of them. We have progressed in our attitude and understanding and knowledge towards these two groups. We have opened our hearts and our institutions to these unfortunate individuals. We now offer them the projection and resources of the State to improve their lives, if possible, and at a minimum, to make their lives as close to normal as we can, if not much more obtainable.

With homosexuals, we act in such a way as to increase their suffering. Anyone who has talked with them, or read anything about them knows that they do suffer, and their parents, too. Some day we may find some answers. We may discover for certain that homosexuality has a genetic origin, an imbalance of certain hormones, perhaps, a different chromosome, for example. It is in no more their power to change than a club foot or a cleft palate.

To paraphrase the American Psychiatric Association's position on homosexuality, they say "homosexuality, per se, implies no impairment in judgement, stability, reliability, or general social or vocational capabilities. Therefore, no burden of proof of such judgement, capacity or reliability should be placed

upon homosexuals greater than that imposed upon any other person."

I hope the Members of this Senate will be sympathetic to their plight, and tolerant enough to extend the State's protection to this class of citizens in the areas of housing, employment, public accommodation, and credit. Thank you.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senate from York, Senator Kerry.

Senator KERRY: Mr. President and Ladies and Gentlemen of the Senate, I think this particular Bill, which I signed out of Committee Ought to Pass in the Minority, has been the most difficult by far that I have had to deliberate upon as a member of the Judiciary Committee. Even signing the Bill Out of Committee Ought to Pass, I spoke with several members of the Committee and other people, stating that I wasn't sure how I would vote on the Floor of the Senate, because of the gravity of the situation, because of the difficulty and the complexity of the issue.

I think the opening remarks presented by Senator Devoe crystalized why it is so difficult and complex. Complexity of the situation is that we are not dealing strictly with the printed word in LD 961. We are dealing more with the more universal concepts and principles of man and woman, as we see them. We're dealing with, as he said, with behavior, and accepted public policy with regard to that behavior or perceived behavior.

That was why I had such difficulty making up my mind with regards to voting on this Bill, because I realized the issue was not the Bill itself. It's one of those primary issues, those basic issues, the issues of great principle that we often have to vote on, where there are no simple answers. Most of the time, people have already made up their minds, before they even consider the issue. Usually our minds are made up, not because we want to be prejudicial, but because the issue is so complex, and our knowledge is usually limited with regards to the issue itself.

During the deliberations of the Committee, and after listening to many of the people who came before our Committee when we had a public hearing, I decided that I would look at this subject as objectively as I could, as unemotionally as I could, and as disinterested in the sense of a judicial sense of disinterest as I could. Trying to keep in mind not only my own personal views, but the view of my constituents, the views of friends and family, and even the well-being of my three children.

I found that, in looking at the Legislation, the key words are four key words. It says, "sexual or affectional orientation." It mentions nothing about activity or actions. I mention only about the issue of orientation, affectional orientation. I will have to admit that I was somewhat concerned about my lack of knowledge of homosexual affection or orientation. Being a heterosexual, I have to admit to maybe being somewhat fearful of trying to look into my own personal concepts of sexuality. I think that's really the issue, concepts of sexuality, not homosexuality, not heterosexuality, but sexuality itself.

Having a master's degree in social work and planning, and having done considerable work in psychology through college and graduate school, and actually having a lot of practical experience in the field in these areas, I had to admit that I really didn't understand the psychological or physiological ramification of homosexuality, certainly not the derivations of how they developed. I requested, through a few individuals, who knew homosexuality, some homosexuality much better than myself, if they would ask a few people to come to my home to sit down and discuss this. I sat a few hours with several people on a very personal level who spoke to me about the development of their

own homosexual orientation.

Somehow I seemed to have the parallels of back when I lived in Harlem when I was working on my master's degree. I happened to live with a black family, on 110th Street and Second Avenue. I happened to be the only white person there. I can recall that I always thought that I was not prejudicial, or biased, or bigoted, coming from the State of Maine, being a Christian, if you will. I realized that most of my friends and relatives cared only about black people when they were on the tube on a Sunday afternoon, to see how they played ball, or how they did this, or how they did that, how they responded to the individual what I would call White, Anglo Saxon, Protestant perspective that we have here in the State of Maine, and probably in our country.

I guess I somewhat regretted my own concern for my lack of perspective on the issue. I guess I realized it when I saw a black man drive up in a Cadillac in Harlem, dressed in a nice three piece suit, of course I may have one now, but I didn't have one then when I was in graduate school. I said, why does he have that Cadillac and a nice suit and a roll of money? That's how I realized that I was prejudiced, I felt at that time white people. It was a subconscious feeling of fear and hate and concern.

I mentioned this to the gay people that I was speaking with. I spoke with them. They talked to me about the fact that they believe, and they studied the issue quite seriously, they believe most of our society, if it was honest with itself, if we were honest with ourselves, we would say, yes, we are fearful of gay people, of people who are different, because you pose a threat to us. You may point out reality and truth, you may even prove that you love more than we love. I think, that's what concerned me also.

Love does not know sex, God does not know sex. God does not know if you are homosexual or heterosexual or whatever. In fact, I would subscribe to the good Senator from York, Senator Hichens, who often times refers to the Bible, has no right to invoke the word of God, or the Bible, on this floor or any other floor, because God should speak for himself, and he speaks through the hearts of the people, in his own way.

I as an individual in trying to support or non-support of my positions would not invoke God to influence another legislator.

I think that is a matter of truth and justice that we are dealing with here today. The Truth will free us. The Truth frees everybody, my children, I am not fearful of my children recognizing that there are people who do not have the same sexual orientation that I have, or my wife, or any of my family members. I am not fearful that they realize that there are black people, and not every one is white, or there are yellow people, or any other color, but throughout our history, here in the State of Maine, as well as throughout the country and the world prejudice exists. We have our opportunity today to vote for what we think is proper, is uplifting, what is the truth.

It may not be palatable to ourselves because of the implications, and the implications are grave. I would say that the implications on this issue are grave, they are very serious, because there may be an opportunity and there is a chance, that the perception of the public will say that you approve of homosexual activities. I do not accept that I reject it, I categorically say that it is false.

The Bill deals with only orientations, and there is a reality in life that there are people who do have these orientations. I do not accept, or do not promote, or do I want anyone in this Body to believe that I think that homosexuality is a good.

I do believe that homosexuality exists. That is the key point, we cannot deny existence of reality. We have been doing that for years, we tried to deny the existence of black people for their blackness, but they are there, but they

are people. We are trying to deny that homosexuals do exist, and they came to the Civic Center, and they proved that they are alive. They proved that they love, that they hurt. Yes they proved that they even hate and have fear. They are human beings, there is only one God and there is only one Christ, and he nailed himself to the cross two thousand years ago. He allowed it to be done because he was the God and he was the Christ.

For us to state here today, that we can not answer the questions by ourselves would be accurate.

We might have asked all the people that we felt that knew more about the subject then ourselves to come to our conclusion. Even then we cannot be absolutely certain. There is one thing that I am certain of and I have read the Bible many times over, probably 7 or 8 times, both New and Old Testaments. The Knox version, the Gideon version, several versions. I found that after reading the Bible and having many theological scholars discuss the Bible with me, both in graduate school and after graduate school. I find that it is not up to the individual to interpret any specific element within the Old Testament that refers mostly to the homosexual orientation of people and activity, but to refer to, in the good words of the fine Senator from York, Senator Hichens, to Christ himself, and to God through his love.

I would say that this particular issue demands the people of this Senate and the people of this Body accept reality and not be fearful of it.

I have evolved from what would be a personal moral position, as a matter of conscience that I could not deny any individual their right to be. I cannot deny as a matter of public policy, within the codified laws of this State, the right for any citizens to be denied housing, employment, or any other public accommodations because of their orientation. I believe that many homosexual persons do not conduct their activities publicly. They are just like any one else as far as that is concerned. It is a matter of privacy on their own right.

Therefore, I would say that we have an opportunity today as a Body, to accept, yes to take a chance, I believe is risking everything to take a chance, and say yes we will accept the reality to grow, to realize that the State can do this and we will not discriminate.

I will say that it has been mentioned that several letters have come from the Catholic Diocese. I called several people at the Diocese because of my concern and they are not, they themselves are not all united on this issue. I think that it is a clear that it is a difficult issue to resolve. I think that as an individual and as a Senator that I would come down on the position of what I consider just for people as individuals. So I will vote the Minority Report.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President I request that when the vote is taken it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

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

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

(Off Record Remarks)

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Penobscot, Senator Devoe, that the Senate Accept the Majority Ought Not to Pass

Report of the Committee.

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

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Ault, Carpenter, Devoe, Dutremble, Emerson, Gill, Hichens, McBreairty, Minkowsky, O'Leary, Pray, Redmond, Shute, Sutton, Teague, Trotzky.

NAY—Brown, Bustin, Charette, Clark, Collins, Clark, Collins, Conley, Huber, Kerry, Najarian, Sewall, C.; Trafton, Violette, Wood.

ABSENT—Perkins, Pierce, Usher.

A Roll Call was had.

16 Senators having voted in the affirmative, and 13 Senators in the negative, with 3 Senators being absent, the motion to Accept the Majority Ought Not to Pass, does prevail.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, having voted on the prevailing side, I move Reconsideration and ask the Senate to vote against me.

The PRESIDENT: The Senator from Penobscot, Senator Devoe moves that the Senate Reconsider its action whereby it Accepted the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President, I move that the motion to Reconsider be Tabled for 1 Legislative Day.

The PRESIDENT: The Senator from Cumberland, Senator Najarian, moves that this be Tabled for 1 Legislative Day.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: I ask for a Division, Mr. President.

The PRESIDENT: A Division has been requested.

Will call those Senators in favor of the motion by the Senator from Cumberland, Senator Najarian, that LD 961 be Tabled for 1 Legislative Day, please rise in their places to be counted.

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

14 Senators having voted in the affirmative, and 15 Senators having voted in the negative, the motion to Table does not prevail.

The PRESIDENT: Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Devoe of Reconsideration, please say "Yes."

Will all those Senators opposed, please say "No."

A Viva Voce Vote being had, the motion to Reconsider does not prevail.

Sent down for concurrence.

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

Senator COLLINS: Mr. President calling the Senate's attention to LD 1566, we have a technical error to correct, because of our Constitutional requirement for a two-thirds vote in this situation.

I therefore, move reconsideration of the Senate's action whereby LD 1566 was Enacted.

The PRESIDENT: The Senator from Knox, Senator Collins moves that the Senate Reconsider its action whereby Bill, An Act to Revise the State Personnel System. (H.P. 1395) (L.D. 1566) was Passed to be Enacted.

Senator COLLINS: Mr. President, I move for a Roll Call on Enactment.

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 have arisen a Roll Call is ordered.

The pending motion before the Senate is Enactment of LD 1566 in accordance with Article 5, Part 1, Section 8 of the Constitution.

A Yes vote will be in favor of Enactment.

A No vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Ault, Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Emerson, Gill, Hichens, Huber, Kerry, McBreairty, Minkowsky, Najarian, O'Leary, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky, Violette, Wood.

NAY—None.

ABSENT—Perkins, Pierce, Usher.

A Roll Call was had.

29 Senators having voted in the affirmative, and No Senators in the negative, with 3 Senators being absent, LD 1566 was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Bill, "An Act to Regulate Entrance Fees Charged by Mobile Home Parks. (H.P. 779) (L.D. 924)

Tabled—May 7, 1981 by Senator CONLEY of Cumberland.

Pending—Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, I submit Senate Amendment "A" under filing number S-184 and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator Sutton, offers Senate Amendment "A" to LD 924 and move its adoption.

Senate Amendment "A" (S-184) Read.

The PRESIDENT: The Senator has the floor.

Senator SUTTON: Ladies and Gentlemen of the Senate, very briefly, this is the Bill to eliminate fees charged in trailer parks, mobile home parks. We have discussed this. It was a unanimous, I think, it was a unanimous Report Out of Committee. Although there was some concern about it, especially on my part, and there's been a lot of discussion about it, especially in the hall, since then, as to the advisability of really doing away completely with the fee. This Amendment would allow the fee, but would set a cap on it. There have been several discussions about whether it should be two times the monthly rent, or four times, or six times, what have you. This is a compromise of four times. I hope you will accept this amendment.

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

Senator CLARK: Mr. President, Men and Women of the Senate, I would ask the good Chair of the Committee on Business Legislation whether indeed four times the amount of the monthly rent, the average rent is purported to be across the State, somewhere between \$60 and \$70 a month, where in my area of the State it's probably more nearly between \$70 and \$80 a month, whether four times that amount will indeed cover the cost of checking out a resident of a mobile home park, and/or qualifying the prospective tenant. What does, under the Statement of Fact of this Amendment under filing number S-184, what does qualifying the prospective tenant entail, that would justify the assessment of an entrance of four times the monthly rent, which would equal anywhere between \$300 and \$400?

The PRESIDENT: The Chair will order a Division.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Oxford, Senator Sutton, that the Senate Adopt Senate Amendment "A" to L.D. 924, please rise in their places to be counted.

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

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: I request a Roll Call.

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

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

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

The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, without getting into all the rhetoric on qualifying and checking out, entrance fees is income to a mobile home park. Not all mobile home parks charge entrance fees. Some of them are quite high. I think that's what prompted this particular piece of legislation.

If home park owners don't get this income from some place, they're going to get it from some place else. Unfortunately, the most logical place they're going to get it is from the raising the rent on people already in the park, or by raising substantially and/or adding a deposit, security deposit.

It's an upfront charge, the folks know about it. It's not hidden and it's not secret. It's income. There is some charge to checking people out. I wouldn't dare get into debate with the good Senator from Cumberland, Senator Clark, on how much it costs to checkout a person, but there are certain things, to keep the respectability, and the class of a mobile home park that an owner will go through. There are some costs to it.

Irregardless of that, it is an income that's going to have to be made up some place else by the park owner. It seems reasonable to bring this Amendment in. It eliminates those that are putting high fees on.

Also, some park owners require that people, when they sell their trailers, move them out of the park so that they can get another fee when they come back in, and/or improvements. I would submit that doing away with the entrance fee is only going to increase that problem more than help it.

I wish you would seriously consider leaving the free enterprise, the free market place, to do its thing, and Adopt this Amendment. Thank you.

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

Senator CLARK: Thank you, Mr. President. Mr. President, Men and Women of the Senate, I'm not unalterably opposed to placing a cap of four times the amount of the monthly rent as an entrance fee. I just simply seek justification for the addition of an entrance fee to a Bill which would, in fact, or an entrance fee cap, to a Bill which would, in fact, prohibit entrance fees.

While I'm not questioning the germaneness of this Amendment, for I am fully aware that it probably has been examined on that issue. I simply would like some justification.

The Committee on Business Legislation did indeed report this LD 924 out with a unanimous Ought to Pass. I don't mean to be an impediment to its progress this afternoon. I'm just wondering if the mobile home park dealers in our State are going to assess an entrance fee no more than four times the monthly rent of a park unit on the people who rent those spaces, if those people buy their units from that mobile

park dealer, who may be, in fact, a mobile home seller?

It is my understanding, and I feel before the Committee, that entrance fees are inequitably levied on mobile home park residents and potential residents across the State. That's my concern.

I would remind you of an interesting facet to this free enterprise system relative to the availability of mobile home parks and sites across the State. I alluded to that in my previous debate of last week. I would simply remind you that unless these fees are levied equitably, that indeed we are creating more of an unfair situation for potential residents of mobile home parks than indeed exists today.

Under current law, nothing prohibits the mobile home park owner from evicting a resident and their unit with a four month notice. Nothing is going to prohibit that action with LD 924. I simply would like some justification for the Adoption of this Amendment. I guess I don't feel as though that justification has been fully forthcoming.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Oxford, Senator Sutton, that the Senate Adopt Senate Amendment "A" to LD 924.

A Yes vote will be in favor of Adopting Senate Amendment "A" to LD 924.

A No vote will be opposed.

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

#### ROLL CALL

YEA—Bustin, Collins, Devoe, Emerson, Gill, Hichens, Huber, Kerry, McBreairty, O'Leary, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky.

NAY—Brown, Carpenter, Charette, Clark, Conley, Dutremble, Minkowsky, Najarian, Pray, Trafton, Violette, Wood.

ABSENT—Ault, Perkins, Pierce, Usher.

A Roll Call was had.

16 Senators having voted in the affirmative and 12 Senators in the negative, with 4 Senators being absent, the motion to Adopt Senate Amendment "A" to LD 924 does prevail.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

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

SENATE REPORTS — from the Committee on Fisheries and Wildlife — "Bill, An Act to Prohibit Hunting of Bear with Bait. (S. P. 64) (L. D. 91) MAJORITY REPORT OUGHT NOT TO PASS; MINORITY REPORT OUGHT TO PASS.

Tabled—May 7, 1981 by Senator COLLINS of Knox

Pending—Acceptance of Either Report

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I move Acceptance of the Majority Ought Not to Pass Report of the Committee, and I'd like to briefly address the Senate on this matter.

This Bill, distinguished Members of the Senate, had a 12 to 1 Report Out of Committee. Bear is a resource which this State is blessed with and contributes to the economy of the whole State. We have a well managed and well organized management team, and guides, and resorts that handle this resource legally. Why open it up to the outlaws?

If this Bill, LD 91, passes, it's unenforceable. Who can prove why anything was set out as bait? Was it for coyotes? Was it for bear? If four coyotes and a bear comes along, it's still legal for a bear hunter to shoot the bear.

We had, in Committee, a Bill that was killed yesterday. That the members of the Committee worked on it quite ardently. There are some rules that the Department of Fisheries and Wildlife will adopt, that come from this Bill.

I'll just brief you as briefly as possible. It goes like this.

Any hunter who may place bear bait as an attractor during an open season on hunting bear, except during the month of November, provided that he places no more than two cubic feet of bear bait at a single location. The bear bait entirely biodegradable and does not include any whole carcasses, or plastic materials. The bait area is clean at the end of each period of use. Each bait area is identified with a label containing the full name and address of the person who established the bait area.

Ladies and Gentlemen, we have the Department of Inland Fisheries and Wildlife that are doing a pretty good job now. They have asked us to send this Bill down the tubes.

Also, the bear hunters don't care for this Bill. I would ask you, when the vote is taken, I wish that we'd take it by the Yeas and Nays. I'd ask you to send this Bill down the tubes.

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

Senator HICHENS: Mr. President, Members of the Senate, LD 91 prohibits hunting of bear with bait. I presented this bill representing hundreds of people in Maine who feel that bear baiting is an unnecessary and very poor practice of enticing these animals to certain areas for the purpose of shooting or trapping them.

Even though we have enacted a bill which prevents the spring season where bear baiting is more prevalent than in the fall season, these people feel that bear baiting isn't even feasible at that time of year.

The area of bait causes unsightly and widespread litter. Those who defend the bear baiting practices will tell you that the baiting stations are clean and confined. Maybe they are when first set out, but bears aren't the only animals enticed by the rotting bait and refuse. Small animals, and birds drag this bait around in larger areas and no confined area can contain the odor that results from rotting carcasses or pieces of dead animals.

I have shown actual snapshots with most of you showing carcasses of animals, tin cans and barrels which have been placed for bear baiting stations, and also I have sent out a vivid cartoon of these so called sportsmen waiting for their prey which are repulsive to say the least. Many of these are placed on land leased from the Dead River Co.

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

Senator PRAY: Mr. President, I question whether or not there is a quorum present.

A Quorum of Senators was called to the Chamber.

The Senate called to order by the President.

The PRESIDENT: The Chair thanks the Senator from Penobscot for calling the situation to the Chair's attention.

The Senator from York, Senator Hichens, may now proceed.

Senator HICHENS: Thank you, Mr. President, and thank the good Senator for bringing that to your attention. For those who were not here to hear my speech, I'm going to start over again.

LD 91 prohibits hunting of bear with bait. I presented this Bill representing hundreds of people in Maine who feel that bear baiting is an unnecessary and very poor practice of enticing these animals to certain areas for the purpose of shooting or trapping them.

Even though we have enacted a Bill which prevents the spring season where bear baiting is more prevalent, than in the fall season, these people feel that bear baiting isn't even feasible at that time of year.

The area of bait causes unsightly and widespread litter. Those who defend the bear baiting practices will tell you that the baiting stations are clean and confined. Maybe they are when first set out, but bears aren't the only

animals enticed by the rotting bait and refuse. Small animals, and birds drag this bait around in larger areas and no confined area can contain the odor that results from rotting carcasses or pieces of dead animals.

I have shown actual snapshots to most of you showing carcasses of animals, tin cans and barrels which have been placed for bear baiting stations, and also a vivid cartoon of these so-called sportsmen waiting for their prey, which are repulsive to say the least. Many of these are placed on land leased from the Dead River Company, Great Northern, and so forth. Which have rules for garbage and refuse disposal which are ignored by the bear hunters. Why this exclusive group is exempted is a riddle to me.

You have received a letter asking how anyone can prove that bait was placed for bear. Yet, the good Senator from Somerset has just told you, the present law requires bear baiters to identify themselves by a notice placed by the bear station, clearly indicating to anyone but the bear, the purpose of its being placed there.

As you note on the committee report, I am the lone signer of the Ought to Pass Report to prohibit bear baiting. Those of you who believe in good sportsmanship and are not in favor of ruthless measures to entice the game animals of our state so that they are easy prey for the hunter will vote with me today and vote against the Ought Not to Pass Report on L. D. 91.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: I didn't know they had any bear baiting in York County. I'm not aware that they kill any bear in York County in the past year. In the Bill that was presented to the Senate here a week ago, which was amended by the good Senator from Aroostook, Senator McBreairty, it had to do with bear damage to beehives, and killing of animals, and such.

I know of no other way that we're going to get any of these problem bears. In order to trap them or anything else, you have to have some kind of bait for them.

The damage to the crops in Oxford County, Rumford Point in particular, amounts to thousands and thousands of dollars. They have to hire people who will bait and trap these bear. I can't see where we on the State level, where this is a game animal, it's not a nuisance animal any longer, should subsidize the farmers to this extent. The only sane way to do it, I believe, is to bait them.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: In answer to the good Senator O'Leary, there are bear in York County. One of my neighbors has a very beautiful bear skin rug, that I see quite often.

In answer to his questions about protecting property, the laws already allow that a person can shoot a bear, or trap a bear if they are destroying property.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

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

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

The pending question before the Senate is the motion by the Senator from Somerset, Senator Redmond, that the Senate Accept the Majority Ought Not to Pass Report of the Committee.

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

A No vote will be opposed.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, I wish permission to pair my vote with the gentleman from Cumberland, Senator Usher. If he were here, he would be voting Yea and I would be voting Nay.

The PRESIDENT: The Senator from York, Senator Wood, requests Leave of the Senate to pair his vote with the gentleman from Cumberland, Senator Usher. If he were here, he would be voting Yea and the Senator from York, Senator Wood, would be voting Nay.

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

It is a vote.

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

#### ROLL CALL

YEA—Carpenter, Devoe, Emerson, Kerry, McBreairey, O'Leary, Pray, Redmond, Sewall, C.; Sutton, Teague.

NAY—Brown, Bustin, Charette, Clark, Collins, Conley, Dutremble, Gill, Hichens, Huber, Minkowsky, Najarian, Shute, Trafton, Trotzky, Violette.

ABSENT—Ault, Perkins, Pierce.

PAIRED—Usher-Wood.

A Roll Call was had.

11 Senators having voted in the affirmative and 16 Senators in the negative, with 3 Senators being absent, and 2 Senators having paired their votes, the motion to Accept the Majority Ought Not to Pass Report does not prevail.

The Minority Ought to Pass Report of the Committee Accepted, and the Bill Read Once, and Tomorrow Assigned for Second Reading.

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

HOUSE REPORTS—from the Committee on Fisheries and Wildlife — "Bill, An Act to Abolish the Trapping of Bear." (H. P. 553) (L. D. 629) MAJORITY REPORT Ought Not to Pass; MINORITY REPORT Ought to Pass.

Tabled—May 7, 1981 by Senator COLLINS of Knox.

Pending—Acceptance of Either Report.

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

Senator HICHENS: Mr. President, I move the Acceptance of the Minority Ought to Pass Report.

The PRESIDENT: The Senator from York, Senator Hichens, moves that the Senate Accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, I request a Division. I'd like to briefly address the Senate.

The PRESIDENT: The Senator has the floor.

Senator REDMOND: Here again, distinguished Members of the Senate, I am asking you to bear with me, because the district that I serve is affected by this Bill. The large Number 5 bear trap that the good Senator from York has been walking around here, I'd like to tell you that this trap does not get set more than six times in the Maine woods during the season. It is a collector's item.

I'd like also to advise the good Senator that it has a value of at least \$200 or \$300. Most trappers use the leg snare trap. The leg snare trap is very safe and not costly. When we set the Number 5 leg hold trap, we must do the following. Use a fence around the trap, two strands of wire, label the wire saying "bear trap". There has never been an accident with the large foot hold trap. It has been used in Maine for years.

LD 502, which has been signed into law already, is a good Bill. The season would be set, and would be September and October for trapping. There has been a reduction of five months bear hunting in this law that we passed last week, and no spring trapping in the State of Maine.

The ones who proposed this reduction are those people who know their business. They're

the Maine trappers. The Legislature went along with it.

LD 629 would do nothing but confuse the bear issue all the more. I'm tired of bear, and I'm sure you are. Vote LD 629 down the tubes and stay with LD 502, already signed into law.

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

Senator HICHENS: Mr. President, the purpose of LD 629 is to prohibit the trapping of bear for commercial use in the State of Maine. Maine is the only state in the union to allow commercial bear trapping. The 20 pound steel jaw leg hold bear trap is extremely dangerous, and poses a hazard to other animals and humans. As the good Senator from Somerset has said, you have had opportunity to view a trap this morning, with these jaws with the teeth in them. You can well imagine the pain that a bear suffers, if he is caught in one of these traps.

Six times of setting this trap in a year, as he has stated, is six times too many as far as I'm concerned.

The black bear recently achieved the status of big game animal in Maine. Allowing the use of bear traps is inconsistent with the Department's policies and other big game animals. Few bears are taken in this manner, so few individuals will be affected. I was told this morning there are approximately 15 sportsmen, so-called, in the State who trap bear. In the sportsman's letter that you received on your desks yesterday, it says that trapping is a necessary tool in nuisance bear control. Only the blueberry or corn grower, or keeper of bees, will suffer if trapping of bear is denied.

LD 629 provides for the use of cable leg snares or culvert live trap for the taking of nuisance or research animals. I, therefore, ask that you support me on my Minority Ought to Pass Report.

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

Senator BROWN: Mr. President, I'd like to pose a question, if I may, to anyone that could answer. It's my understanding that these traps are attached to logs, and that this bleeding bear that has his leg partially broken, drags this log through the woods. I'm just curious if someone could answer that question.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I'd be pleased to answer that question. I would, also, answer the good Senator from York. I'll start answering the good Senator from York, his last comment that he just made. I think he had rehearsed his speech so well that he did not listen to what I was saying, that the obsolete leg hold trap that he was walking around, belongs across the street here in the museum.

He's trying to tell us that we should vote for that Bill based on that trap and six hunters a year. I referred to the other trap, the ones that they use, not the leg hold trap. I could be walking around and showing you some fish lures that they gave me when I went fishing down the coast. They gave me some very live fish, that I had to drive these cruel hooks through and leave them enough so they wouldn't die, just to keep them alive so they'd be wiggling, and sew them on to these hooks. Then when we hooked onto a fish the idea was to pull just as hard as we could, and jerk that there so we'd hook them good.

The PRESIDENT: The Chair would interrupt the good Senator and advise him that exhibits in the Chamber are expressly forbidden in the opinion of the Chair. The Chair would advise the Senator that if he persists with the exhibit, the Chair is certain there could be other exhibits brought in on the other side of the argument, which I'm sure the Senator would not appreciate.

Senator REDMOND: Thank you, Mr. President. I only want to be fair to the members of the Senate here. These old traps are the ones

that the bear were walking around all over the place with a pole dangling. Our trappers in the district that I serve are very honorable people. Trapping is part of the economy. I hope that you will listen to the experts and the Committee on Fisheries and Wildlife, and not an expert who, right now, the Senator O'Leary has just mentioned, that he should stick with Agriculture and leave Fisheries and Wildlife alone, because the Bill that he's supporting would force the Department of Fisheries and Wildlife to spend a few million dollars a year to pay for damage caused by bear and other animals.

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

Senator BROWN: Mr. President, I just wish that the good Senator were here when we were trying to save the stripers recently.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: I would request a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

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

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

The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Mr. President, I wish permission to pair my vote with the gentleman from Cumberland, Senator Usher. If he were here, he would be voting Nay and I would be voting Yea.

The PRESIDENT: The Senator from Washington, Senator Brown, request Leave of the Senate to pair his vote with the gentleman from Cumberland, Senator Usher. If he were here, he would be voting Nay and the Senator from Washington, Senator Brown, would be voting Yea.

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

It is a vote.

The pending question before the Senate is the motion by the Senator from York, Senator Hichens, that the Senate Accept the Minority Ought to Pass Report of the Committee.

A Yes vote will be in favor of Accepting the Minority Ought to Pass Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Charette, Conley, Devoe, Dutremble, Gill, Hichens, Huber, Minkowsky, Najarian, Shute, Trafton, Trotzky, Violette.

NAY — Carpenter, Collins, Emerson, Kerry, McBreairey, O'Leary, Pray, Redmond, Sewall, C.; Sutton, Teague, Wood.

ABSENT — Ault, Bustin, Clark, Perkins, Pierce.

A Roll Call was had.

Senator Devoe of Penobscot was granted permission to change his vote from Yea to Nay.

12 Senators having voted in the affirmative and 13 Senators in the negative, with 5 Senators being absent, and 2 Senators having paired their votes, the motion to Accept the Minority Ought to Pass Report of the Committee does not prevail.

The Majority Ought Not to Pass Report of the Committee Accepted, in non-concurrence.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I move Reconsideration and I hope it doesn't pass.

The PRESIDENT: The pending question before the Senate, is the motion by the Senator



from Somerset, Senator Redmond, that the Senate Reconsider its action whereby the Senate Accepted the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Huber.

Senator HUBER: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Somerset, Senator Redmond, that the Senate Reconsider its action whereby the Senate Accepted the Majority Ought Not to Pass Report of the Committee, please rise in their places to be counted.

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

12 Senators having voted in the affirmative, and 13 Senators in the negative, the motion to Reconsider does not prevail.

Sent down for concurrence.

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

**Paper from the House  
House Paper**

Bill, "An Act to Create a Maine Groundfish Association." (H. P. 1443) (L. D. 1585)

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

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Sutton.

Senator SUTTON: Mr. President, the other day we had a bill come out in to put smoke detectors in apartments. I stood up and said what I'm going to say right now again. The bills were all supposed to be in this Legislature months ago. We have extended the time at least twice, when they're supposed to be out of committee, and now have a deadline of next Wednesday. The committees are working day and night to finish up what they have. I think it's rather ludicrous that we still have bills coming before us for a hearing.

I would like to see this Senate join together as a bipartisan caucus to send the word to whoever we need to send it to that we're not going to accept any more bills, unless they are of a very critical emergency nature.

Mr. President, I move that this Bill be Indefinitely Postponed.

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

Senator CONLEY: Mr. President, I believe this is a Bill that has come from the Executive Department and the Governor. I would like to make it clear to the good Senator from Oxford, I don't enjoy having any more bills than any one else does. I can assure you, we still have approximately three to four weeks left here, that today during the council meeting, we've accepted at least two bills of an emergency nature that were submitted, and considered by the council.

I would only urge that the Senate vote against the pending motion.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Indefinite Postponement of L. D. 1585, please rise in their places to be counted.

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

7 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion to Indefinitely Postpone L. D. 1585 does not prevail.

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

On motion by Senator Collins of Knox,  
Adjourned until Monday, May 11, at 10:30 o'clock in the morning.