

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 5, 1990 to May 16, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
36th Legislative Day
Tuesday, April 16, 1991

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

Prayer by Reverend Robert Hargreaves, St. Mark's Episcopal Church, Augusta.
Pledge of Allegiance.

The Journal of Thursday, April 11, 1991, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

April 11, 1991

The Honorable John L. Martin
Speaker of the House
115th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following, upon the recommendation of the Joint Standing Committee on Agriculture:

Clement H. Smith of Monmouth for appointment to the Animal Welfare Board. Clement H. Smith is replacing Phil Andrews.

Michael A. Wiers of St. Albans for appointment to the Maine Milk Commission. Michael A. Wiers is replacing Arthur Adelberg.

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act Regarding Survivor Benefits in the Event of Remarriage" (S.P. 549) (L.D. 1453)

Bill "An Act to Amend Certain Laws Administered by the Maine State Retirement System" (S.P. 562) (L.D. 1466)

Came from the Senate, referred to the Committee on **Aging, Retirement and Veterans** and Ordered Printed.

Were referred to the Committee on **Aging, Retirement and Veterans** in concurrence.

Bill "An Act Relating to Retirement Service Credits for Former Workers' Compensation Commissioners Who Became Judges before December 1, 1984" (S.P. 553) (L.D. 1457)

Came from the Senate, referred to the Committee on **Aging, Retirement and Veterans** and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on **Judiciary**.)

Was referred to the Committee on **Aging, Retirement and Veterans** in concurrence.

Bill "An Act Relating to Registration of Electrologists" (S.P. 561) (L.D. 1465)

Bill "An Act to Amend the Electricians' Licensing Laws" (S.P. 565) (L.D. 1485)

Came from the Senate, referred to the Committee on **Business Legislation** and Ordered Printed.

Were referred to the Committee on **Business Legislation** in concurrence.

Bill "An Act to Make Miscellaneous Changes to the Maine Revised Statutes, Title 34-A" (S.P. 569) (L.D. 1489)

Came from the Senate, referred to the **Joint Select Committee on Corrections** and Ordered Printed.

Was referred to the **Joint Select Committee on Corrections** in concurrence.

Resolve, to Create the Commission to Study the History, Status, Impact and Role of Independent Higher Education in Maine (S.P. 548) (L.D. 1452)

Came from the Senate, referred to the Committee on **Education** and Ordered Printed.

Was referred to the Committee on **Education** in concurrence.

Bill "An Act to Provide Access for Persons with Physical Disability to the State's Recreational Areas" (S.P. 568) (L.D. 1488)

Came from the Senate, referred to the Committee on **Energy and Natural Resources** and Ordered Printed.

Was referred to the Committee on **Energy and Natural Resources** in concurrence.

Bill "An Act to Amend the Laws Relating to the Long-term Care Ombudsman Program" (S.P. 550) (L.D.

1454)

Came from the Senate, referred to the Committee on **Human Resources** and Ordered Printed.

Was referred to the Committee on **Human Resources** in concurrence.

Bill "An Act Regarding Notice of Claim" (S.P. 552) (L.D. 1456)

Bill "An Act Relating to Court Security Personnel" (S.P. 554) (L.D. 1458)

Bill "An Act Relating to the Notice of Claim Provisions of the Maine Tort Claims Act" (S.P. 557) (L.D. 1461)

Bill "An Act to Reconcile Dates Barring Claims in the Probate Code" (S.P. 559) (L.D. 1463)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Were referred to the Committee on **Judiciary** in concurrence.

Bill "An Act to Ensure National Standards of Care" (S.P. 560) (L.D. 1464)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on **Human Resources**.)

Was referred to the Committee on **Judiciary** in concurrence.

Bill "An Act to Continue Authority for Seasonal Agency Liquor Stores" (EMERGENCY) (S.P. 566) (L.D. 1486)

Came from the Senate, referred to the Committee on **Legal Affairs** and Ordered Printed.

Were referred to the Committee on **Legal Affairs** in concurrence.

Bill "An Act to Establish the Law Student Loan Repayment Assistance Fund for Law School Graduates Pursuing Public Interest Employment" (S.P. 567) (L.D. 1487)

Resolve, to Conduct an Independent Review of the Department of Human Services (S.P. 551) (L.D. 1455)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Were referred to the Committee on **State and**

Local Government in concurrence.

Bill "An Act to Standardize the Excise Tax on Large Trucks" (S.P. 555) (L.D. 1459)

RESOLUTION, Proposing an Amendment to the Constitution of Maine Defining "Just Value". (S.P. 564) (L.D. 1484)

Came from the Senate, referred to the Committee on **Taxation** and Ordered Printed.

Were referred to the Committee on **Taxation** in concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine Concerning Taxation of Condominiums and Planned Unit Developments (S.P. 558) (L.D. 1462)

Came from the Senate, referred to the Committee on **Taxation** and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on **State and Local Government**.)

Was referred to the Committee on **Taxation** in concurrence.

Bill "An Act to Establish a Scenic Roadway Designation in the State" (S.P. 556) (L.D. 1460)

Came from the Senate, referred to the Committee on **Transportation** and Ordered Printed.

Was referred to the Committee on **Transportation** in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on **Energy and Natural Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Prevent Ongoing Erosion Damage to the Environment by Allowing Preventative Repair" (S.P. 161) (L.D. 373)

Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on Bill "An Act Concerning Health Care Insurance" (S.P. 372) (L.D. 997)

Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on Bill "An Act to Establish Tax Credits for Capital Investment in Aircraft" (S.P. 379) (L.D. 1056)

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

Unanimous Leave to Withdraw

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Resolve, to Extend the Reporting Date of the Commission to Study the Feasibility of Establishing a Piscataqua River Basin Compact Between Maine and New Hampshire (EMERGENCY) (S.P. 320) (L.D. 858)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act Concerning Income Eligibility for General Assistance" (S.P. 389) (L.D. 1066)

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

Refer to the Committee on Business Legislation

Report of the Committee on Transportation on Bill "An Act to Amend the Maine Traveler Information Services Laws" (S.P. 369) (L.D. 994) reporting that it be referred to the Committee on Business Legislation.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Business Legislation.

Report was read and accepted and the bill referred to the Committee on Business Legislation in concurrence.

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-47) on Bill "An Act to Remedy Statutory Inconsistencies" (EMERGENCY) (S.P. 463) (L.D. 1239)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-47) and Senate Amendment "A" (S-59).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-47) was read by the Clerk and adopted.

Senate Amendment "A" (S-59) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, April 17, 1991.

Non-Concurrent Matter

Bill "An Act to Prevent Discrimination" (S.P. 175) (L.D. 430) on which the Minority "Ought Not to Pass" Report of the Committee on Judiciary was read and accepted in the House on April 1, 1991.

Came from the Senate with that Body having insisted on its former action whereby the Majority "Ought to Pass" as amended Report of the Committee on Judiciary was read and accepted and the Bill

passed to be engrossed as amended by Committee Amendment "A" (S-32) in non-concurrence.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

COMMUNICATIONS

The following Communication:

UNIVERSITY OF MAINE SYSTEM
107 Maine Avenue
Bangor, Maine 04401-1805

April 8, 1991

The Honorable Charles P. Pray
President of the Senate
The Honorable John L. Martin
Speaker of the House
Maine State Legislature
State House
Augusta, Maine 04333

Dear President Pray and Speaker Martin:

Thank you for your invitation to address a joint session of the 115th Maine Legislature on Thursday, April 25. I accept and look forward to the opportunity to share my thoughts on the status of public higher education with our elected representatives.

Sincerely,

s/Robert L. Woodbury
Chancellor

Was read and ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills and Resolution were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Aging, Retirement and Veterans

Bill "An Act to Amend the Maine State Retirement System Laws Relating to Military Service Credits" (H.P. 1047) (L.D. 1520) (Presented by Representative JALBERT of Lisbon) (Cosponsored by Representative ALIBERTI of Lewiston)

Ordered Printed.
Sent up for Concurrence.

Agriculture

Bill "An Act to Make Maine Milk Laws Conform to

Federal Laws" (H.P. 1060) (L.D. 1549) (Presented by Representative TARDY of Palmyra) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act Authorizing a Bond Issue in the Amount of \$2,000,000 for the Purpose of Fostering Agricultural Development in the State" (H.P. 1046) (L.D. 1519) (Presented by Representative MAHANY of Easton) (Cosponsored by Senator PEARSON of Penobscot and Representative PARADIS of Frenchville)

Ordered Printed.
Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Provide Equitable Insurance Coverage for Mental Illness" (H.P. 1064) (L.D. 1553) (Presented by Representative DORE of Auburn) (Cosponsored by Representative HOGLUND of Portland and Representative MAHANY of Easton)

Ordered Printed.
Sent up for Concurrence.

Business Legislation

Bill "An Act to Include Land Surveyors in the Lien Laws" (H.P. 1036) (L.D. 1509) (Presented by Representative RICHARDS of Hampden) (Cosponsored by Representative MacBRIDE of Presque Isle, Representative TARDY of Palmyra and Representative COTE of Auburn)

Bill "An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages" (H.P. 1057) (L.D. 1546) (Presented by Representative FARNSWORTH of Hallowell) (Cosponsored by Representative KONTOS of Windham and Representative HOGLUND of Portland)

Ordered Printed.
Sent up for Concurrence.

Education

Bill "An Act to Provide for Discipline of Exceptional Students with Behavior Problems" (H.P. 1038) (L.D. 1511) (Presented by Representative MURPHY of Berwick) (Cosponsored by Senator ESTES of York, Senator CARPENTER of York and Representative FARNUM of South Berwick)

Bill "An Act to Amend the School Finance Laws" (H.P. 1055) (L.D. 1544) (Presented by Representative HEPBURN of Skowhegan) (Cosponsored by Representative

WATERMAN of Buxton and Representative NASH of Camden)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act Relating to Best Practicable Treatment Determinations in Air Emission Licensing" (H.P. 1040) (L.D. 1513) (Presented by Representative GOULD of Greenville) (Cosponsored by Senator LUDWIG of Aroostook, Senator THERIAULT of Aroostook and Representative ANDERSON of Woodland)

Ordered Printed.
Sent up for Concurrence.

Later Today Assigned

Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions" (H.P. 1039) (L.D. 1512) (Presented by Representative SKOGLUND of St. George)

(The Committee on Reference of Bills had suggested the Committee on Energy and Natural Resources.)

On motion of Representative Nadeau of Saco, tabled pending reference and later today assigned.

Energy and Natural Resources

Bill "An Act to Supplement State Environmental Enforcement" (H.P. 1062) (L.D. 1551) (Presented by Representative COLES of Harpswell) (Cosponsored by Representative MARSH of West Gardiner and Representative TREAT of Gardiner)

Ordered Printed.
Sent up for Concurrence.

Housing and Economic Development

Bill "An Act to Establish Priority for the Development of Community-based Nonprofit Housing at the Maine State Housing Authority" (H.P. 1063) (L.D. 1552) (Presented by Representative OLIVER of Portland) (Cosponsored by Speaker MARTIN of Eagle Lake and Representative KILKELLY of Wiscasset)

Bill "An Act to Unify Housing Services" (H.P. 1067) (L.D. 1556) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Senator BRANNIGAN of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Extend the Certificate of Need Program to All Major Medical Equipment" (H.P. 1051) (L.D. 1524) (Presented by Representative MANNING of Portland) (Cosponsored by Senator CONLEY of Cumberland and Senator GILL of Cumberland)

Bill "An Act to Establish Interdepartmental Coordination and a Comprehensive Delivery System of Services for Persons who Have Sustained Traumatic Head Injury" (H.P. 1050) (L.D. 1523) (Presented by Representative CARROLL of Gray) (Cosponsored by Senator BRANNIGAN of Cumberland and Representative RUHLIN of Brewer)

Ordered Printed.
Sent up for Concurrence.

Education

Bill "An Act to Provide Tuition Assistance for Persons Seeking a Master's Degree in Social Work" (H.P. 1044) (L.D. 1517) (Presented by Representative MANNING of Portland) (Cosponsored by Representative HANDY of Lewiston and Senator ESTES of York)

(The Committee on Reference of Bills had suggested the Committee on Human Resources.)

On motion of Representative Manning of Portland, was referred to the Committee on Education, ordered printed and sent up for concurrence.

Human Resources

Bill "An Act to Penalize the Department of Human Services for Failing to Make Prompt Child Support Payments to Obligees" (H.P. 1054) (L.D. 1543) (Presented by Representative LAWRENCE of Kittery) (Cosponsored by Representative OLIVER of Portland, Representative GEAN of Alfred and Senator CONLEY of Cumberland)

Bill "An Act to Provide Training for Long-term Care Facilities Personnel" (H.P. 1056) (L.D. 1545) (Presented by Representative BOUTILIER of Lewiston) (Cosponsored by Senator GILL of Cumberland, Representative HEPBURN of Skowhegan and Representative PENDLETON of Scarborough)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Clarify Statutory Provisions Relating to Asset Forfeiture" (H.P. 1043) (L.D. 1516) (Presented by Representative FARNSWORTH of Hallowell) (Cosponsored by Senator MILLS of Oxford and Representative COTE of Auburn) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Bill "An Act to Limit the Liability of Nonprofit

Food Providers Who Supply Meals and Other Food to Low-income and Homeless Persons" (H.P. 1041) (L.D. 1514) (Presented by Representative OLIVER of Portland) (Cosponsored by Representative GEAN of Alfred, Representative LAWRENCE of Kittery and Senator CONLEY of Cumberland)

Bill "An Act to Clarify the Scope of Review Obtainable by the State When the Defendant Has Appealed to the Law Court in a Criminal Case" (H.P. 1035) (L.D. 1508) (Presented by Representative PARADIS of Augusta) (Cosponsored by Senator GAUVREAU of Androscoggin) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Bill "An Act to Amend the Maine Indian Claims Settlement Laws to Clarify Land Use in Indian Territory" (H.P. 1061) (L.D. 1550) (Presented by Representative CASHMAN of Old Town) (Cosponsored by Senator PEARSON of Penobscot)

Bill "An Act to Correct Certain Errors and Inconsistencies in the Maine Revised Statutes, Title 17-A" (H.P. 1053) (L.D. 1542) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative GREENLAW of Standish and Representative OTT of York) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Provide That Workers' Compensation Claims Are Work Related" (H.P. 1065) (L.D. 1554) (Presented by Representative HASTINGS of Fryeburg) (Cosponsored by Senator BRAUN of Knox)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning Beano or Bingo" (H.P. 1049) (L.D. 1522) (Presented by Representative JALBERT of Lisbon) (Cosponsored by Representative KERR of Old Orchard Beach and Representative GREENLAW of Standish)

Bill "An Act to Promote Efficient Enforcement and to Correct Inconsistencies in the Manufactured Housing Laws" (EMERGENCY) (H.P. 1048) (L.D. 1521) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representative SHELTRA of Biddeford and Senator RICH of Cumberland) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Bill "An Act to Ensure Preservation of Burial Grounds" (H.P. 1058) (L.D. 1547) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representative JALBERT of Lisbon and Representative FARNUM of South Berwick)

Ordered Printed.

Sent up for Concurrence.

State and Local Government

Bill "An Act Concerning the Sale of Surplus State Property" (H.P. 1042) (L.D. 1515) (Presented by Representative TREAT of Gardiner) (Cosponsored by Representative LARRIVEE of Gorham, Senator McCORMICK of Kennebec and Representative SAVAGE of Union)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers (H.P. 1045) (L.D. 1518) (Presented by Representative BENNETT of Norway) (Cosponsored by Representative LOOK of Jonesboro and Representative HANLEY of Paris)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Provide a Local Option Income Tax to Municipalities" (H.P. 1037) (L.D. 1510) (Presented by Representative PLOURDE of Biddeford)

Bill "An Act to Prevent Governmental Overvaluation of Property for Property Tax Purposes" (H.P. 1034) (L.D. 1507) (Presented by Representative HEINO of Boothbay) (Cosponsored by Representative KERR of Old Orchard Beach)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act to Amend the Farm Truck Registration Laws" (H.P. 1033) (L.D. 1506) (Presented by Representative PINES of Limestone) (Cosponsored by Representative MAHANY of Easton)

Bill "An Act to Establish Title for Snowmobiles and All-terrain Vehicles" (H.P. 1066) (L.D. 1555) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator CLARK of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Regulate Incineration Plants" (H.P. 1059) (L.D. 1548) (Presented by Representative MELENDY of Rockland)

Ordered Printed.
Sent up for Concurrence.

Reported Pursuant to Resolves

Representative COLES for the Commission on Maine's Future, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72 ask leave to submit its findings and to report that the accompanying Bill "An Act to Provide for a Decennial Commission on Maine's Future" (H.P. 1068) (L.D. 1557) be referred to the Joint Standing Committee on **State and Local Government** for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on **State and Local Government**, ordered printed and sent up for concurrence.

Reported Pursuant to Resolves

Representative COLES for the Commission on Maine's Future, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72 ask leave to submit its findings and to report that the accompanying Resolve, to Create the Commission to Evaluate the Need for Changes in the Responsibilities of State, County and Local Government for the 21st Century (H.P. 1070) (L.D. 1559) be referred to the Joint Standing Committee on **State and Local Government** for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on **State and Local Government**, ordered printed and sent up for concurrence.

Reported Pursuant to Resolves

Representative COLES for the Commission on Maine's Future, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72 ask leave to submit its findings and to report that the accompanying Bill "An Act to Institutionalize Strategic Planning in State Government" (H.P. 1071) (L.D. 1560) be referred to the Joint Standing Committee on **State and Local Government** for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on **State and Local Government**, ordered printed and sent up for concurrence.

Reported Pursuant to Resolves

Representative COLES for the Commission on Maine's Future, pursuant to Resolve 1987, chapter 60, Resolve 1989, chapter 3 and Resolve 1989, chapter 72 ask leave to submit its findings and to report that the accompanying Resolve, to Create the Task Force on Life-long Learning and Educational Choice (H.P. 1069) (L.D. 1558) be referred to the Joint Standing Committee on **Education** for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Education, ordered printed and sent up for concurrence.

ORDERS

On motion of Representative MAYO of Thomaston, the following Joint Order: (H.P. 1052)

Ordered, the Senate concurring, that Joint Rule 15 be amended to read:

15. Reports of Bills from Committee.

1. Deadline for Reports. The Joint Standing Committees shall report out every bill which has been referred to them in the manner prescribed in these rules in accordance with deadlines established by the presiding officers.

2. Recommendation Required. The report of the committee shall include a recommendation of one of the following: Ought to Pass, Ought to Pass as Amended, Ought to Pass in New Draft, Ought Not to Pass, Unanimous Ought Not to Pass, Unanimous Leave to Withdraw. Ought to Pass, Ought to Pass as Amended, Ought to Pass in New Draft or Ought Not to Pass reports may be recommended by a plurality of the committee. When the committee recommendation is not unanimous a minority report or reports are required.

3. Unanimous Ought Not to Pass Report. When all 13 members of a Joint Standing Committee vote to report a bill Ought Not to Pass the bill shall, upon notification of both Houses, be placed in the legislative file and disposed of as provided in subsection 5 as prescribed herein.

4. Unanimous Leave to Withdraw. When the sponsor ~~and all cosponsors request~~ requests that the committee give Leave to Withdraw a bill and all 13 members of the Committee concur, the bill shall be reported Unanimous Leave to Withdraw and the bill shall be placed in the legislative file and disposed of as provided in subsection 5 as prescribed herein. Once a bill has had a public hearing, the committee may not report out a bill Unanimous Leave to Withdraw.

5. Two-thirds Required. When a bill or resolve is placed in the legislative file pursuant to subsection 3 or 4, no further action shall be taken following such disposition unless the bill or resolve is recalled for reconsideration by a vote of two-thirds of both Houses.

6. New Drafts. When the changes voted by the committee are major, the committee may elect to

report the bill out Ought to Pass in New Draft with authorization of the presiding officers. When a plurality of the committee recommends this report, the chairs shall submit a request for authority to report the bill out in this fashion. When the committee recommendation is not unanimous, a minority report is required. New drafts printed pursuant to these rules shall include the legislative document number that the

new bill replaces with the names of the original sponsor and cosponsors. The Secretary of the Senate and the Clerk of the House shall determine the number of copies which shall be printed of each new draft.

Was read.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: This rule is one which I had the misfortune to debate at some length in an unsatisfactory manner just a week or so ago and I have no problems with the provisions which the Representative from Thomaston has suggested as they appear in Paragraph 4. It has long been my view that there should not be a Leave to Withdraw.

However, I do find the change which has been styled in the first line of Paragraph 4 as being a printing error to be a change of significant substance and because it seems to me as though the House ought to have it in mind and, since I am amenable to either because I believe this rule will be better than it was, I nevertheless think we ought to focus on the fact that what this means is, if that two or three legislators together decide that they want to have a bill and one of them becomes the prime and the others becomes the cosponsors on a unanimous Leave to Withdraw on behalf of the sponsor, the cosponsors are without remedy unless they are successful in thereafter being able to have the bill withdrawn from the Legislative Files.

I also think that with a little bit of time, paragraph 3 could be written in a way, which to those who are not familiar with the machinations of this rule, would be more satisfactorily explained. It seems to me as though there is a kind of ambiguity that exists with respect to paragraph 3 since the question is upon notification of both Houses. It seems to me it should be after notification of both Houses or upon notification to both Houses so that the action would be disjunctive; that is, nobody could take action once such a thing occurs and that the way in which the rule would then read would be changed from the use of the words "and disposed of" as appears on the top line of your printed calendar on Page 9 because the disposition that you take is really upon the notification from the committee to the House that it is going to go into the Legislative File. There is a continuing ambiguity in the sense that, and I wrestled with this just a week or so ago, as to whether or not, once it goes into the file, you can immediately make a motion to reconsider and therefore it needs a two-thirds vote. You will remember I was discussing the question of whether or not you could do some other things which was suggested as a course of action, which has turned out since that it is not a course of action which required only a majority vote.

I am not opposed to a committee which acts in the fashion in which paragraph 3 would suggest that the action be taken requiring two-thirds for further action by the House, but for those people who try and understand the procedures here and by simply reading this rule, I still suggest that this rule is not clear. However, since it is such an improvement, I will not vote in the negative unless there is some other people in the House who share my views that it could, with just a minimum of effort, be made into a

rule which will take us to where I think we presently are under the procedures.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I presented this Order in an attempt to make some clarification or to design the rules the way I thought was more manageable for this House and for this legislature. It was not my intent to try to fix every problem with the Joint Rules. I am not a lawyer and I am not an expert certainly of the Joint Rules but I felt strongly that we should take some steps to ease the burden of committees from having to determine from a sponsor whether or not they wanted a Leave to Withdraw or an Ought Not to Pass Report when, in fact, both reports are identical for the practical facts.

The printing error was a result of the transfer from a computer downstairs to a computer upstairs and I apologize for that. The original document that I have here was correctly crossed out (those sections). When it was transferred to the Clerk's computer, because the computers oftentimes need to get a little assistance — the other computer didn't understand the command.

As to striking out the section on the cosponsors request for a Leave to Withdraw, it has been long my opinion that that rule probably was not being followed very well. If it was followed to the letter of the law, it would be an extreme administrative burden on the committees and that is why I chose to delete it. The committees do have another redress though, the cosponsors do have another means for redress and that is, the committee does not have to vote to give Leave if it does not want to. This is a vote the committee would have to take and it would have to be unanimous. So if some cosponsor wanted to keep a bill alive but the sponsor wanted to withdraw, they would simply have to go to committee and say, look, I am a cosponsor of this bill and I would like it to be kept alive, I don't want it withdrawn, and the committee could then make that action.

Subsequently, was passed and sent up for concurrence.

On motion of Representative HICHBORN of Howland, the following Order:

ORDERED, that Representative Ronald C. Bailey of Farmington be excused April 4 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Clyde A. Hichborn of Howland be excused April 4 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Rodney V. Bowers of Sherman be excused April 8 and 9 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Lucien A. Dutremble of Biddeford be excused April 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Patrick E. Paradis of Augusta be excused April 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Virginia Constantine of Bar Harbor be excused April 11 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Harry W. Bailey of Township 27 be excused April 11 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Maria Glen Holt of Bath be excused April 11 for legislative business.

AND BE IT FURTHER ORDERED, that Representative George A. Townsend of Eastport be excused April 11 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Elmer N. Savage of Union be excused April 11 and 12 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Edward L. Pineau of Jay be excused April 11 and 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Margaret Pruitt Clark of Brunswick be excused April 11 and 12 for legislative business and April 15 and 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Bradford E. Boutilier of Lewiston be excused April 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Donald H. Gean of Alfred be excused April 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative John A. Aliberti of Lewiston be excused April 16 to 19 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Robert J. Tardy of Palmyra be excused April 16 to 19 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Peggy A. Pendleton of Scarborough be excused April 8 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Elizabeth H. Mitchell of Vassalboro be excused April 16 to 18 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative DORE from the Committee on Taxation on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for a Uniform Property Tax (H.P. 741) (L.D. 1045) reporting "Ought Not to Pass"

Representative DORE from the Committee on Taxation on Bill "An Act to Amend the Maine Endangered and Nongame Wildlife Fund" (H.P. 459)

(L.D. 650) reporting **"Ought Not to Pass"**

Representative CLARK from the Committee on Utilities on Bill "An Act to Mandate the Continuance of Current Policies on Winter Utility Disconnections" (EMERGENCY) (H.P. 4) (L.D. 10) reporting **"Ought Not to Pass"**

Representative JACQUES from the Committee on Fisheries and Wildlife on Bill "An Act to Provide Persons 70 Years or Older with Free Doe Permits" (H.P. 780) (L.D. 1112) reporting **"Ought Not to Pass"**

Representative JACQUES from the Committee on Fisheries and Wildlife on Bill "An Act to Allow the Department of Inland Fisheries and Wildlife to Determine the Number of Moose Licenses Issued Annually" (H.P. 730) (L.D. 1034) reporting **"Ought Not to Pass"**

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

Unanimous Leave to Withdraw

Representative MANNING from the Committee on Human Resources on Bill "An Act to Require State-funded Institutions and Food Programs to Provide Vegetarian Alternative Meals" (H.P. 638) (L.D. 912) reporting **"Leave to Withdraw"**

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act Concerning Liquor Sales to Lounges, Taverns and Restaurants" (H.P. 847) (L.D. 1213) reporting **"Leave to Withdraw"**

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act to Amend the Laws Concerning Operating Under the Influence" (H.P. 784) (L.D. 1116) reporting **"Leave to Withdraw"**

Representative ROTONDI from the Committee on Fisheries and Wildlife on Bill "An Act Regarding Bow Hunting" (H.P. 953) (L.D. 1380) reporting **"Leave to Withdraw"**

Representative O'DEA from the Committee on Aging, Retirement and Veterans on Bill "An Act to Amend the Provisions of the Maine State Retirement System Laws Relating to Benefits of Inactive Members Who Retire after Normal Retirement Age" (H.P. 687) (L.D. 986) reporting **"Leave to Withdraw"**

Representative SKOGLUND from the Committee on Marine Resources on Bill "An Act to Amend the Dates for Scallop Fishing in the Damariscotta River" (H.P. 544) (L.D. 781) reporting **"Leave to Withdraw"**

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

Divided Report

Majority Report of the Committee on Housing and

Economic Development reporting **"Ought Not to Pass"** on Bill "An Act to Repeal the Job Opportunity Zones Act" (H.P. 325) (L.D. 455)

Signed:

Senators: BRANNIGAN of Cumberland
DUTREMBLE of York

Representatives: MELENDY of Rockland
BELL of Caribou
PLOURDE of Biddeford
SALISBURY of Ellsworth
LEBOWITZ of Bangor
KONTOS of Windham
HEESCHEN of Wilton
STEVENSON of Unity
KILKELLY of Wiscasset

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Representative: GRAHAM of Houlton

Reports were read.

Representative Melendy of Rockland moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: This is not the first time that I have been in the minority on a bill but I think this is the first time that I have ever spoken having been on the minority on a bill. In the other cases, I felt that I needed to make a stand and express my viewpoint and on this point today, I need to tell you why I voted this way.

The Job Opportunity Zones Act will cost \$700,000 over the next two years for a program that has never created a single job in this state and that information comes from an independent study by the Erling Group. The Erling Group has done other work for the State of Maine in consulting and doing studies and no one has ever questioned their voracity or their truthfulness or their honesty or their conclusions.

I went to the town of Allagash this weekend, spent the whole weekend up there with all my aunts and uncles who were amongst the people who got pulled out of some of those houses during the flood and one of them came very close to drowning.

Also this weekend we had a conference in Limestone dealing with the closing of Loring Air Force Base. I think these two situations, which did not exist at the time the committee took its vote, give a whole new light to this situation. The fact remains that Aroostook County is the only county losing population. As much as other areas of this state might claim that they are also in economic distress, I must point out that people are moving away from my county to your counties for some reason.

No situation in the history of this state could ever have occurred to point out the fallacy of the Job Opportunity Zone Program as clearly and distinctly as what has happened this past week in Aroostook County. \$700,000 over two years, dedicated to four small areas of the state, one of which is

also central Aroostook. At this point in time, with the eminent demise of Loring and with the economic disaster in the St. John Valley and the possibility of more flooding and more damage on the Allagash River, which may occur in the next week, we have never had a situation that points up the fallacy of dedicating money to areas when the program has failed. There is no time more important right now than to take this money and send it to the area of the state that is in the greatest amount of distress.

I am not arguing this point on the behalf of Aroostook County because I was against the Job Opportunity Zones from the beginning. As Representative Bailey will remember, we went around this and around this and around this last session, but for those of you whose districts do not lie within the Job Opportunity Zone, I have to ask two questions — are you experiencing economic difficulty right now? And if you are, what earthly good is Job Opportunity Zones doing for your districts?

I am not asking that we take the money out of the budget, I am not asking that we take this money out of Economic Development, I am not asking that we take it out of the Economic Development Department, I think the money should stay at DECD for programs that work.

I would ask you all to vote against the pending motion so that we can go on and vote the other way on this one.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I am not in disagreement with Representative Graham in the fact that we should be doing away with Job Opportunity Zones. There are several members of the committee who also feel the same way. However, what happened is, a couple of years ago, we drastically cut the amount of money going to Job Opportunity Zones and, right now, what we need to address is the fact that most of this money has already been contracted out. The four different groups that are now part of the Job Opportunity Zones have already spent the money so there really isn't much money sitting there for us to save.

I would have no problem at all, in the next biennium when money is being suggested, that it be cut from Job Opportunity Zones and shared across the state, but I think at this time this is the reason the majority members of the committee decided that they had to vote "Ought Not to Pass" and we hope that you will support us.

The SPEAKER: The Chair will order a vote. The pending motion before the House is the motion of the Representative from Rockland, Representative Melendy, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

88 having voted in the affirmative and 20 in the negative, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Preserve Maine's Part-time Citizen

Legislature by Making the Legislative Process More Efficient and Less Costly to Maine Taxpayers" (H.P. 124) (L.D. 169)

Signed:

Senators: EMERSON of Penobscot
BUSTIN of Kennebec
BERUBE of Androscoggin

Representatives: JOSEPH of Waterville
HEESCHEN of Wilton
LOOK of Jonesboro
ST. ONGE of Greene
SAVAGE of Union
WATERMAN of Buxton
GRAY of Sedgwick
KERR of Old Orchard Beach
LARRIVEE of Gorham

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-90) on same Bill.

Signed:

Representative: NASH of Camden

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: First I would like to congratulate Representative Nash of Camden for being a visionary. Representative Nash has single-handedly crafted an amendment that would basically follow exactly what the House leadership and the Senate leadership has decided, even though it guts the original bill, L.D. 169.

Let me give you a little background for those of you who haven't had a chance to look at Committee Amendment "A." Committee Amendment "A" reflects fairly closely the scheduling which has been proposed by Speaker Martin and President Pray. Representative Nash's bill would have us get out close to Memorial Day in the first session and not much later than is standard for the second session.

My question here to the members of the House is, if we can operate effectively under the proposed scheduling by the legislative leadership, then I suggest that we make this change statutorily. I encourage this primarily for two reasons. The first is cost savings. In these dire economic times, any dollar saved is a dollar that puts us further ahead in our goal to balance the budget and to have a budget that will responsibly reflect the needs of Maine's citizens. The fiscal note or the deappropriation of this Committee Amendment would be over half a million dollars.

The second reason would be to open the doors of the State House a little bit wider because time is the only constraint that Maine residents share equally. If we were to shorten the length of the session even by this short amount, we might be able to attract a few more candidates, come next fall, or the fall of 1992.

At this point in time, I would like to publicly commend the good Speaker for his attempt to institute the reforms that I have been championing since 1987. If this bill and Committee Amendment "A" were voted out of State and Local Government today, I am sure the vote would be dramatically different based on the actions of the legislative leadership.

I feel that it is important that the proposed changes be made statutorily so we can have a guide when we try to recruit candidates to run for the legislature, come the next election.

Because of this, I would hope that you would vote against the pending motion and then further accept Committee Amendment "A" to L.D. 169 contained in the Minority "Ought to Pass" Report.

Mr. Speaker, I request a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 28

YEA - Adams, Anderson, Anthony, Bell, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Coles, Constantine, Cote, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Farnsworth, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Look, Lord, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, J.; Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Savage, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Swazey, Tamaro, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Heino, Hepburn, Hichens, Kutasi, Lebowitz, Libby, Lipman, MacBride, Marsano, Marsh, Merrill, Morrison, Nash, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Small, Spear, Stevens, A.; Stevenson, Whitcomb.

ABSENT - Aliberti, Boutilier, Cashman, Clark, M.; Crowley, Erwin, Gean, Hastings, Mitchell, E.; Rand, Tardy, The Speaker.

Yes, 94; No, 45; Absent, 12; Paired, 0; Excused, 0.

94 having voted in the affirmative and 45 in the negative with 12 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Tabled and Assigned

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators and Members of the House of Representatives (H.P. 256) (L.D. 347)

Signed:

Senators: BUSTIN of Kennebec
EMERSON of Penobscot
BERUBE of Androscoggin

Representatives: KERR of Old Orchard Beach
SAVAGE of Union
WATERMAN of Buxton
LOOK of Jonesboro
HEESCHEN of Wilton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-89) on same Bill.

Signed:

Representatives: ST. ONGE of Greene
GRAY of Sedgwick
NASH of Camden
LARRIVEE of Gorham
JOSEPH of Waterville

Reports were read.

Representative Joseph of Waterville moved that the House accept the Minority "Ought to Pass" Report.

On motion of the same Representative, tabled pending her motion that the House accept the Minority "Ought to Pass" Report and specially assigned for Wednesday, April 17, 1991.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Require Seat Belts in School Buses" (H.P. 199) (L.D. 290)

Signed:

Senators: THERIAULT of Aroostook
GOULD of Waldo

Representatives: MACOMBER of South Portland
STROUT of Corinth
HUSSEY of Milo
BOUTILIER of Lewiston
SMALL of Bath
TAMMARO of Baileyville
RICKER of Lewiston
BAILEY of Farmington
HALE of Sanford
MARTIN of Van Buren

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-94) on same Bill.

Signed:

Senator: MILLS of Oxford

Reports were read.

Representative Macomber of South Portland moved that the House accept the Majority "Ought Not to Pass" Report.

Representative Mitchell of Freeport requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from South Portland, Representative Macomber, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 29

YEA - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bowers, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Duffy, Duplessis, Farnum, Farren, Foss, Garland, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gwadosky, Hale, Hanley, Heesch, Heino, Hepburn, Hichborn, Hichens, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, LaPointe, Larrivee, Lebowitz, Lemke, Libby, Lipman, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McKeen, Melendy, Merrill, Michaud, Morrison, Nadeau, Nash, Norton, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Parent, Paul, Pendleton, Pfeiffer, Pineau, Pines, Poulin, Pouliot, Powers, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Skoglund, Small, Spear, Stevens, A.; Stevenson, Strout, Swazey, Tamaro, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb.

NAY - Adams, Dore, Farnsworth, Gurney, Handy, Lawrence, Luther, McHenry, Mitchell, J.; Murphy, Nutting, Paradis, P.; Pendexter, Plourde, Simpson, Stevens, P..

ABSENT - Aliberti, Bennett, Boutillier, Cashman, Clark, M.; Dutremble, L.; Erwin, Gean, Hastings, Mitchell, E.; Rand, Tardy, The Speaker.

Yes, 122; No, 16; Absent, 13; Paired, 0; Excused, 0.

122 having voted in the affirmative and 16 in the negative with 13 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 702) (L.D. 1006) Bill "An Act to Amend the Laws Regarding Enhanced 9-1-1" (EMERGENCY) Committee on Utilities reporting "Ought to Pass"

(H.P. 708) (L.D. 1013) Bill "An Act to Amend the Qualification of Blueberry Producers Associations in the Maine Agriculture Marketing and Bargaining Act of 1973" Committee on Agriculture reporting "Ought to Pass"

(H.P. 341) (L.D. 471) Bill "An Act to Amend the Maine Human Rights Act to Prohibit Educational Discrimination on the Basis of Race" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-109)

(H.P. 178) (L.D. 263) Bill "An Act Regarding Traffic Violations Bureaus" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-110)

(H.P. 268) (L.D. 388) Bill "An Act to Provide Payment of Restitution to the Offices of the District Attorneys" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-111)

(H.P. 97) (L.D. 138) Bill "An Act to Appropriate Funds to Continue the Surname Index Project at the Maine State Library" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-113)

(H.P. 573) (L.D. 824) Bill "An Act to Require Voter Approval for Disposal of School Property" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-114)

(S.P. 168) (L.D. 380) Bill "An Act to Amend the Appointment Process for the Panel of Mediators" Committee on Labor reporting "Ought to Pass"

(S.P. 435) (L.D. 1156) Bill "An Act to Extend the Reporting Deadline of the Commission to Study the Certificate of Need Law and the Impact of Competitive Market Forces on Ambulatory Health Services" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass"

(H.P. 516) (L.D. 744) Bill "An Act to Enable Retail Stores to Bottle and Sell Water on the Premises" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-119)

(H.P. 388) (L.D. 562) Bill "An Act Regarding Local Option Questions on the Sale of Beer and Wine" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-121)

(H.P. 346) (L.D. 476) Bill "An Act Concerning the Lobster Harvesting License Fee for Persons 70 Years of Age or Older" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-125)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, April 17, 1991, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 39) (L.D. 61) Bill "An Act to Require the Earlier Determination of State Aid to Education"

(S.P. 252) (L.D. 710) Bill "An Act to Amend the Law Governing the Election of Members to Regional Vocational Boards"

(S.P. 269) (L.D. 728) Bill "An Act Pertaining to the Licensing of Boarding Care Facilities"

(S.P. 277) (L.D. 736) Bill "An Act to Amend the Laws Concerning the Aeronautical Functions Investigation"

(S.P. 125) (L.D. 227) Bill "An Act to Provide Equity in the Natural Resources Protection Laws" (C. "A" S-43)

(S.P. 180) (L.D. 489) Bill "An Act to Change the Specifications for Membership of the Maine Dental Health Council" (C. "A" S-39)

(S.P. 254) (L.D. 712) Bill "An Act to Amend the Charter of the Portland Water District" (C. "A" S-41)

(S.P. 260) (L.D. 718) Bill "An Act to Protect the Confidentiality of Library Records at Libraries of the University of Maine System" (C. "A" S-42)

(S.P. 279) (L.D. 738) Bill "An Act to Reestablish the Board of Visitors of State Institutions, except for the Augusta Mental Health Institute and the Bangor Mental Health Institute" (C. "A" S-38)

(S.P. 282) (L.D. 741) Bill "An Act to Amend the Laws Governing the Bath Children's Home" (C. "A" S-37)

(S.P. 323) (L.D. 879) Bill "An Act to Prevent Multiple Assessments of Patients at the Augusta Mental Health Institute" (C. "A" S-44)

(H.P. 202) (L.D. 293) Bill "An Act to Place the Deferred Compensation Plan Under the Direction of the Maine State Retirement System" (C. "A" H-88)

(H.P. 216) (L.D. 307) Bill "An Act to Amend the School Bus Inspection Laws" (C. "A" H-91)

(H.P. 444) (L.D. 634) Bill "An Act to Exempt Municipal Vehicles from Overweight Penalties" (C. "A" H-92)

(H.P. 335) (L.D. 465) Bill "An Act to Extend Coverage to Veterans' Stepchildren for Educational Assistance" (C. "A" H-93)

(H.P. 619) (L.D. 889) Bill "An Act to Amend the Rules Dealing with Laundering Services for Cloth Diapers Used by Day Care Centers" (C. "A" H-95)

(H.P. 612) (L.D. 872) Bill "An Act to Amend the Maine Housing Authorities Act and the Affordable Housing Partnership Act of 1989" (C. "A" H-96)

(H.P. 395) (L.D. 569) Bill "An Act to Amend the Composition of the Board of Trustees of the Maine Technical College System" (C. "A" H-100)

(H.P. 389) (L.D. 563) Bill "An Act to Amend the Auctioneer Licensing Law Relating to the Sale of Motor Vehicles at Public Auction" (C. "A" H-101)

(H.P. 501) (L.D. 695) Bill "An Act to Amend the Uniform Fraudulent Transfer Act" (C. "A" H-103)

(H.P. 363) (L.D. 517) Bill "An Act Concerning the Payment of Interest on Mandatory Escrow Balances" (C. "A" H-104)

(H.P. 54) (L.D. 75) Bill "An Act to Protect Insurance Consumers and Encourage Long-range Financial Planning" (C. "A" H-105)

(H.P. 443) (L.D. 633) Bill "An Act Relating to Violations Involving the Disregard of Red Flashing Lights on School Buses" (C. "A" H-106)

(H.P. 190) (L.D. 283) Bill "An Act to Provide Due Process in Employment Decisions Affecting Public School Principals" (C. "A" H-108)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Make Changes in the Quahog Tax Laws" (H.P. 164) (L.D. 249) (C. "A" H-107)

Bill "An Act to Amend the Election Laws Dealing with Local Elections" (H.P. 224) (L.D. 315) (C. "A" H-86)

Were reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Regulate Water Utilities (S.P. 19) (L.D. 8) (C. "A" S-31)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Strengthen the Operating-under-the-influence Laws (H.P. 32) (L.D. 42)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Define the Boundary between the Towns of Madison, Norridgewock and Skowhegan (S.P. 91) (L.D. 176)

An Act to Amend the Maine Lemon Law (S.P. 315) (L.D. 853)

An Act to Amend the Law Concerning the Court Appointed Special Advocate Advisory Panel (H.P. 196) (L.D. 287)

An Act to Amend the Student Incentive Scholarship Program (H.P. 200) (L.D. 291) (C. "A" H-53)

An Act Regarding the Filing of a Uniform Traffic Ticket and Complaint by Law Enforcement Officers (H.P. 208) (L.D. 299) (C. "A" H-56)

An Act to Amend the Laws Governing Disclosure of Information in Medical Support Recoupment and Child Support Cases (H.P. 302) (L.D. 423) (C. "A" H-51)

An Act to Abolish the Pheasant Stamp Program (H.P. 396) (L.D. 570) (C. "A" H-55)

An Act Requiring Motor Vehicle Operators to Furnish Their Date of Birth upon the Request of a Law Enforcement Officer (H.P. 414) (L.D. 597) (C. "A" H-54)

An Act to Amend the Warranty and Disclosure Requirements Applicable to Certain Sellers of Repossessed Vehicles (H.P. 600) (L.D. 860)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, April 11, 1991, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Protect Children from Illegal Tobacco Sales" (S.P. 506) (L.D. 1344) (Committee on Legal Affairs suggested) - In Senate, Referred to Committee on Business Legislation.
TABLED - April 11, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Reference in concurrence.

On motion of Representative Gwadosky of Fairfield, retabled pending reference in concurrence and later today assigned.

TABLED AND TODAY ASSIGNED

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

Bill "An Act Concerning Succession to the Position of Treasurer of State" (H.P. 103) (L.D. 146) - In House, Passed to be Engrossed on March 25, 1991. - In Senate, Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.
TABLED - April 11, 1991, by Representative GWADOSKY of Fairfield.
PENDING - Further consideration.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, I move that the House recede and concur.

Ladies and Gentlemen of the House: The motion to recede and concur will cause this bill to die at this point. It is a strange motion for me to make in that I am the sponsor of this legislation.

Nonetheless, it has been brought to my attention by the Governor's Office and by the Attorney General's Office that this bill, in its present form, would be unconstitutional and, in fact, in order to provide for a proper succession of the office of Treasurer in this state, we would need a constitutional amendment.

It is my intention to bring such an amendment forward in the next legislative session so we can properly provide for the succession for the office of Treasurer should a vacancy occur in that office.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.
Representative MCHENRY: Mr. Speaker, are we not

by receding and concurring accepting the other body's position where they are insisting on this bill being passed?

The SPEAKER: The Chair would advise the Representative that the Senate killed the bill.

Subsequently, the House voted to recede and concur.

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

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as Amended by Committee Amendment "A" (H-76) - Committee on Education on Bill "An Act to Revise the Composition of the Board of Trustees of the University of Maine System" (H.P. 251) (L.D. 342)
 TABLED - April 11, 1991 by Representative CROWLEY of Stockton Springs.
 PENDING - Motion of same Representative to Accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Men and Women of the House: L.D. 342, An Act to Revise the Composition of the Board of Trustees of the University of Maine System was to allow faculty members to serve on the University of Maine System Board of Trustees and the committee voted 10 to 3 against that concept.

I have a booklet here called "The Guardian" which is a report by the Association of Governing Boards of Universities and Colleges in the United States and they say that the best model for Boards of Trustees is to concentrate on overall policy including a statement of mission, a performance review upon renewal of the institution and major and specific individual decisions and on being informed but not mention of administration of the system. The system must maintain campus autonomy. The administration is not the function of the Board, it is the function for each campus to have authority to administer their campus.

The University of Maine campuses must and do operate in a participatory manner. The law already allows for a student to be a full member of the University of Maine Board of Trustees because we figured that students are consumers and, therefore, it is good to give them a vote. Employees do not have membership on the Board of Trustees. For example, the President has often said that we ought to have a President on the Board of Trustees or we ought to have a faculty member or we ought to have a professional staff member or a non-professional staff member — well, the University System is organized just as these experts prescribe with an organized sub-committee composed of four faculty members and a member of the Board of Trustees to deal with academic affairs. They have the advisory responsibility to the Board. The key to good management and administration is autonomy and this is exactly how the University operates. We have a Chancellor, Bob Woodbury, who has risen through the academic ranks and has the ability, knowledge and experience to choose capable Presidents and to give them the autonomous reins to run their campuses with their

students, faculty and local people.

We have an excellent plan, let's not, this legislature, screw the thing up.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to the motion to accept the Majority "Ought Not to Pass" Report and urge you to vote against it so we can consider the "Ought to Pass" Report.

It is true, we already have a student member on the Board of Trustees and they are consumers. I would like to see a faculty member on the Board of Trustees, they are the deliverers of the service.

I would like to just say a couple of words about my own coming of age and coming into consciousness about the composition of the Board of Trustees and how I felt about it. Some years ago, as I was reading the newspapers and so on about some issues at the University, it occurred to me that, on the Board, there was a large number of business representatives and usually quite a few lawyers, though that doesn't happen to be the case right now, there are only two lawyers on there. I always wondered why there was nobody on there, I should not say nobody, but it seemed to me at the time there were very few representatives to the scholarly profession of the academic perspective. I always felt that perhaps the Board would be better informed with such a person on it, especially with respect to policy, and could make better informed recommendations or pass better informed decisions.

Recently, it has come to my attention that we have a very rapid turnover in Presidents at our various campuses. Indeed, I know that several, just in my brief tenure here at the legislature, have come and gone. One is almost tempted to call them "fly-by-night" administrators. Still these administrators have quite a lot of clout and I think the administration has, with the Board of Trustees, a disproportionate amount of clout. Still I was not willing, actually, to do anything about it until a few years ago when, on the recommendation of a newly arrived and presently about to leave President of the University of Maine, the recommendation was made and, after what I consider a too brief consideration passed by the Board of Trustees, to replace the one College of Arts and Sciences at the University of Maine with three colleges, one for humanity, one for social and behavioral sciences, and one for the natural sciences. Well, I didn't understand the rationale for that and I couldn't find any in the newspapers and, after the decision was made, I approached one of the members of the Board and said, "How come? What was your rationale and what were you going to gain by doing that?" His response was, "Well I really don't know what the rationale was." I am not pointing fingers at this particular person but it made me even more suspicious that perhaps the Board is too much inclined to rubber stamp administrative proposals and that, indeed, we need some scholarly representation or faculty representation, preferably tenured faculty representation on the Board of Trustees. Certainly I understand that a member of the faculty on the Board would not be a panacea. I think, however, it would be a help and a decisive help. That particular decision has constantly been on my mind and finally this session I introduced this bill to put a faculty person on the Board of Trustees. I am glad that I

did, I have learned a lot about how the University and the Board relate to each other.

Ladies and gentlemen, just consider why that decision would act as a catalyst to get me to introduce this bill. I have a few figures for you that might help underline why I think that that decision was entered into far too rapidly. Personally after speaking with many faculty, I tend to believe, had there been a strong person from the faculty on that Board, that more deliberation would have been given to that decision and that probably it would have been turned down. Creating three colleges out of one is not just a little matter — what we did was we added two Deans at \$77,000 a piece in addition for the original one. We added Assistant Deans, a couple of those, at \$60,000 a piece, Assistants to the Deans at \$25,000 a piece, and Administrative Assistants at \$24,000. Fringe benefits totaling around \$90,000 and that in itself makes a total of \$462,000. Then operating costs, such as travel, telephone, computer lines and so forth is probably, that's a guess, another \$30,000 or so and that grand total comes to somewhere around \$500,000. Now there may be some savings somewhere to offset the additional costs in creating three colleges to replace one, I don't have any information on that, but I doubt very sincerely if those savings would come anywhere near what this figure adds up to.

I believe putting a faculty person on the Board would help to prevent decisions like that, would give the academic perspective a fair hearing, and remember, in this day and age of fly-by-night Presidents, it is the faculty that has the longest horizon in which to view the progress of public education in Maine.

This isn't just my opinion and the opinion of Representative Handy and Representative Oliver, this is the opinion of some very good and bright people. Let's take Professor David C. Smith for example from the University of Maine — Professor Smith grew up in Maine and I am pretty sure I am right when I say he came from a modest, family background like the rest of us, he was raised in Maine, he went to the University of Maine, went on to Cornell to get his doctorate and then came back to teach at the University of Maine. He has taught there for more than 20 years, I am sure, because he is going to be retiring soon I think. This professor is the Bird & Bird Professor of History, Professor of Agricultural History, Cooperative Professor of Quaternary Studies at the University of Maine. He has written many volumes on the history of Maine and one of them is his history, "The First Century, a History of the University of Maine, 1865 to 1965." This is a fellow that really has an overview and has done the research, in my judgment, to back up his opinions and his statements. One of the things that he says in an article that appeared in the Bangor Daily News, not so long after my bill was introduced, is and I quote, "In these difficult times, when lack of funding is mandating cutbacks, a faculty voice as to the long-term worth and value of programs, would have been and would be invaluable. As it is now, there is very little faculty voice in these matters." Again I quote him, "The Charter of the University puts the cost of public education in the hands of the faculty. They deserve a voice in the ultimate deliberations as well." He feels that it is important to have such a person as a faculty member from the University of Maine because they come from

public education. As he says, "Those who choose to teach in public education, nearly always do so because of their pedagogical ideas and these voices need to be heard in broad-scaled decision making."

Then I have access to several communications from those faculty people who have served as representatives to the Board and I would like you to hear what one of those persons has to say. I could give you several such renditions. This person served as such a representative for a period of ten years and I will read in some length from her letter. Bear in mind that she does not represent an isolated opinion among those faculty people who have been representatives to the Board of Trustees at the University of Maine System. She says, "Since I was the University of Maine at Presque Isle's faculty representative to the Board for approximately ten years, I have thought you might be interested in my perspective on L.D. 342. The Board is woefully weak in academic expertise." She goes on to say that it is very strong and legal in business expertise and that is necessary because we need that kind of input on the Board and I would agree with that. Then she says and I quote, "There should be at least one seat on the Board which at all times that is to say, through waves of Governor's appointees, we can rely on to represent the knowledge of academics that should be an integral part of every decision that the Board makes." She continues, "I am not concerned here with such issues as faculty workloads, promotions, salaries, fringes and so on. Such issues as major program restructuring, addition of new programs, deletion of existing programs, library facilities and holdings, faculty development funds, teaching of large freshman courses by graduate assistants, the presence or lack thereof of substantial compensatory education programs and so on should have the benefit of faculty expertise before budgetary long or short range plans are voted on by the Board. The faculty vote on these issues would represent the professional academic viewpoints to the public in a clear, unamplified formal manner. Bear in mind with respect to the issue of conflict of interest that this bill takes the faculty person out of the negotiations for salaries, out of the negotiations for tenure." She goes on, "There is a great deal of frustration among faculty members concerning their ability to influence the course of academic change under the present structure of the system. We diligently participate in committee activity on our local campus and occasional on a system wide basis in the expectation that the resulting changes will ultimately benefit the teaching, the learning mission of our system but too often these long and assiduous committee deliberations are presented to the local or system wide decision makers in a summarized form. After minimal discussion, no action is taken or the action taken only vaguely resembles committee recommendations. One example here is the student faculty representatives' committee report on the teaching and learning situation for non-traditional students."

I am not going to read from the three other letters that I have here. They are saying essentially the same thing.

Just remember ladies and gentlemen that this is really not a very radical step. We are asking for one faculty representative because of the expertise they can give. We are not packing the court, far

from it, we already have a student member who is a voting member. I remind you that what it takes to make a University is students and teachers, professors — that's what it takes.

A vote for this bill is a vote for a little more perspective and expertise on the Board and that is all so I hope you will vote against the "Ought Not to Pass" motion.

Mr. Speaker, I ask for a Division.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I will be very, very brief. Title 20A MRSA, Section 1002, Number 2, says about the K-12 system — "A member of a school board or a spouse of members may not be employed as a full-time employee in a public school within the jurisdiction of the school board." This is a state law that has been forever, that the faculty cannot serve on their own school boards. If we don't allow teachers to serve on their school boards, then for the same reason, we feel that we shouldn't have college teachers serving on their boards.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: I rise today to ask for the defeat of the pending motion so we can go on and support the Committee Report that is embodied in House Amendment H-76.

I would like to quote from the same document that my good House Chair has quote from called "The Guardian." I want to point out that this was a book that was researched and sponsored by the Association of Governing Boards of Universities and Colleges so the book already comes with jaundiced eye toward the makeup of the various governing boards of systems of higher education.

There is one little section here that I would like to itemize for you and it goes down a list of what makes up good members of the board. It says, "A Board is only as good as its members. The good member is one who is concerned for the welfare of the institution within the broader public welfare. It is concerned with the long-run welfare of the total institution and not just part of it. It is committed to the institution and not to his or her own agenda or to that of some external group. It is knowledgeable about the institution and not neglectful of essential information, addresses policy and performance with good judgment, has useful skills and experience" and it goes on to list a number of other qualities that are good for members of Boards of Trustees.

I would submit to you, men and women of the House, that a faculty member of the Board of Trustees can present a perspective to the Board that is often lacking, at least has been lacking up until now and that is that perspective of someone who is in education who can present the perspective different from that of any of these sitting Board members now or different even of that a student on the Board of Trustees.

We have built into our committee report provisions that will safeguard against issues that might rise as conflicts, so that is a safeguard already built in.

I would ask just one more question to you, if the Board of Trustees of the University of Maine System have faculty members on its standing committees,

don't they view that as valuable? I would say yes, otherwise they wouldn't be there. I would further submit to you that it is only right and proper that they be enfranchised with a vote as a voting member of the Board of Trustees.

I ask for your support for defeat of this motion so that we can go on to accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I was pleased to be a cosponsor of this legislation because I do believe that diversity and the variety that various opinions can bring to a policymaking board are very positive. One of the benefits that we have in the legislature is that, as we sit in our committees, people represent many different backgrounds and many different experiences, that assists us in making decisions. When people on the Education Committee that have been formerly teachers bring up issues in relation to bills people listen to that because they have experience in that field. When there are people on the Agriculture Committee that are currently farmers and they bring up issues about legislation that maybe someone is not a farmer and doesn't understand, then people listen to that. I think what a faculty representative on the University of Maine System Board could do would be to bring that kind of information to the Board, information that is available currently, information of what is going on right now.

This is scary legislation. I expect for some people it is as scary as it was several years ago when the University of Maine System Board added a student representative. I am sure that there were lots of concerns on peoples minds about what that would do. What it has done is to be very positive. It has allowed students to have an opportunity they might not have had otherwise. It allows them to feel more positive about the Board of Trustees because they have input into what is going on and they have assistance in selecting the person who is going to represent their interests.

I would suggest that this is the same kind of process in which the faculty would be able to have more input into what is going on in policymaking within the University and that diversity is very important.

I would urge you to reject the current motion and to accept the following motion.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Oliver.

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: I had a chance to talk to some faculty members at the University of Southern Maine, Portland, and it is interesting their concern over this bill. The fact that major decisions are being made over the University curriculum, the corp curriculum, the quality of education, whole departments stand threatened to be eliminated. I was thinking of one of my favorite departments because I know graduates and I know how successful its been at the Home Economics Department at the University of Maine in Farmington. This whole department has been eliminated, yet we have had some very sincere letters from the faculty there, not all in the Home Economics Department, trying to explain to us as members of the Education Committee the importance of this decision

to those who teach Home Economics in the State of Maine.

I always believed that during very difficult times it is better to have many voices. Here is a chance that shouldn't be threatening to add a major voice in the University System, the faculty.

I think it is also important to note that we are talking about tenured faculty, we are not talking about the faculty that has one year or two years, we are talking about the faculty that has already been tenured.

The final decision is still in the hands of the Governor, we are not taking the decision making responsibility away from the Governor's Office. What this is doing is saying that we recognize that the faculty at our University System play a very important role in the deciding of curriculum and educational quality, those systems are being challenged at this point. I urge you to defeat this motion before you and to include tenured faculty members on the Board of Trustees.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I will be brief. I am a faculty member myself but not of the University System. I consider that maybe a conflict of interest to speak on this. There are two points and only two that I would make.

One is, what is the big problem? We are not hurt by having a student member already on the board, I don't really believe we would be hurt by having a faculty member on the Board as well.

As a faculty member myself, it sort of makes me feel as second-class that somehow we can't also have the faculty on the Board.

The second point I would make is that it has been said that this is a radical or innovative thing to propose that a faculty member sit on the Board. I would just note to this body that, historically, the first universities when universities were developed in Europe were totally run by the faculty. The faculty were totally the governing body or Board of the early universities. I am not totally convinced that now that we have filtered all the other way to administrative bureaucrats that we have a total improvement today.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: Currently, there is a way for gaining faculty input into the University decision making body through an advisory committee. It seems to me that that system will work and it does so without placing the faculty member, if this bill were to pass, in what I think at times would certainly be a conflict of interest position. I certainly think the input from the faculty is readily available. I have checked that out to the extent that I felt I needed to and I really believe that that conduit is there, should be used, and we will all be better off for it. However, as far as putting a faculty member directly on a Board, which will influence policy which often will affect that member, I think that represents the conflict to which I speak.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I would simply reiterate what faculty representatives to the Board have said to

me. One of them testified at the hearing before the Education Committee that they do not feel that the present possibilities for communications to the Board are entirely adequate. As another one said, "During my time as faculty representative, I have seen many academic issues come before the Board and decisions made upon primarily administrative advice that may be contrary to the priorities of academic population at the University of Maine." These decisions were made with a minimum of input from those who deliver the programs that are being affected.

One can interpret conflict of interest narrowly or broadly, but to have one person on the Board of Trustees to represent what I refer to as an academic perspective, is not packing the court ladies and gentlemen, there are 13 other members on that board. I am merely saying that input would be helpful in the deliberations. What are we afraid of?

Moreover, I think that there is a vast difference between a local school board, local taxpayers, teachers in local schools, and a board of trustees, a statewide system, and faculty people in that system, many consumers in that system, not only from in but from out of state, to me they are two different kinds of entities though the word board and the word faculty relates to both of them.

You know, ladies and gentlemen, I have spent quite a few years in Europe and I never heard in any of the countries that I visited — most of my time was spent in Germany — but I never heard any of them worrying about whether or not their education was going to be good enough for their people to compete with the United States or with any other country for that matter. I hear it here all the time. I suggest to you that it may be time for us to show faculty a little more respect in the constructive sense. They may have something very constructive to say on this Board. I can tell you that the people who really run the German universities are the professors and they are the ones that get top dollar too. I think it is time that we consider bringing the faculty in and being inclusive rather than excluding them. A vote gives that particular perspective a little more clout and we all know that a little more clout is helpful in getting your position across and there is nothing wrong with that.

Representative Handy of Lewiston requested a roll call.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, I request that the report be read.

Subsequently, the Report was read in its entirety by the Clerk.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Stockton Springs, Representative Crowley, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 30

YEA - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bowers, Butland, Cahill, M.; Carleton, Carroll, J.; Clark, H.; Coles, Constantine, Crowley, Duffy, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Graham, Greenlaw, Gurney, Gwadosky, Hale, Hanley, Heino, Hepburn, Hichborn, Hichens, Jacques, Jalbert, Kerr, Ketover, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Manning, Marsano, Marsh, Martin, H.; Melendy, Merrill, Michaud, Murphy, Nash, Norton, O'Dea, O'Gara, Ott, Paradis, P.; Parent, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Poulin, Reed, G.; Reed, W.; Richards, Ricker, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Small, Spear, Stevens, A.; Stevenson, Strout, Swazey, Tammaro, Townsend, Tupper, Vigue, Waterman, Whitcomb.

NAY - Adams, Cathcart, Cote, Daggett, DiPietro, Donnelly, Dore, Farnsworth, Goodridge, Gould, R. A.; Gray, Handy, Heeschen, Hogle, Holt, Hussey, Joseph, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lemke, Luther, Mahany, Mayo, McHenry, McKeen, Mitchell, J.; Morrison, Nutting, Oliver, Paradis, J.; Paul, Plourde, Pouliot, Powers, Richardson, Rotondi, Ruhlin, Rydell, Simpson, Stevens, P.; Tracy, Treat, Wentworth.

ABSENT - Aliberti, Bennett, Boutilier, Carroll, D.; Cashman, Chonko, Clark, M.; Erwin, Gean, Hastings, Mitchell, E.; Nadeau, Rand, Skoglund, Tardy, The Speaker.

Yes, 89; No, 46; Absent, 16; Paired, 0; Excused, 0.

89 having voted in the affirmative and 46 in the negative with 16 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Prevent Discrimination" (S.P. 175) (L.D. 430) which was tabled earlier in the day and later today assigned pending further consideration.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I move that the House recede and concur.

I rise this evening to urge my colleagues in this body to reassess the previous vote. To those of you who voted for this measure several days ago, I compliment you on your vote of tolerance and openness. To those of you in this body who I knew and who voted for this bill, I extend a personal compliment to each and every one of you for your courage and your openness as new legislators having to face this issue for the first time.

To those of you who voted against this measure several days ago, I ask you tonight to reassess your position, to reassess the reasons for not joining the many of us who are in favor of this bill, to reassess your reasons for not being able to support a measure which is so essential to so many men and women of the state.

Since this bill was debated in this body in the first part of April, many editorial writers have written eloquently about our debate and about the

need for this legislation this year in the State of Maine. Most of you have received copies of those editorials. They beg us, once again, to revisit this issue, not put it off to another legislature in another year but to consider it seriously this evening. The issue is real and the issue is more than a piece of paper, the issue is about men and women in this state. I ask you, ladies and gentlemen of this House, to consider that real men and real women feel discrimination and pain when they are denied an opportunity for employment, when they are asked to leave their places where they live and when they are asked to be removed from places of public accommodations. The most central of these issues continues to be employment. None of the other issues are important if they cannot seek employment or keep employment where they work. Real people are asked to leave, to go out and look for other jobs and since the employment situation today is not very good, it means nothing compared to the employment situation that gay men and lesbian women have to face no matter what time of the year when someone discovers them (so to speak) and tells their boss and asks that they be fired from a job that they are very competent at, because of the fact that maybe they are an embarrassment to someone in that community.

I will not belabor the subject for we have had a full and vigorous debate on this issue, we continue to have a full and vigorous debate in this state on the issue but I am hopeful that, when the vote is taken, we will see fit to vote (a majority of us) to give this civil right of access to employment, this civil right of access to housing, and this civil right of access to public accommodations to the same men and women in this state who pay taxes, who live and breathe and die and have the same fears and wants that all of you and I share together with them.

I urge you to vote for the motion to recede and concur.

Representative Whitcomb of Waldo requested a roll call vote.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: I am one of the new Representatives that Representative Paradis mentioned and I rise in support of this bill.

Last week, a public radio program reported on a federal study about teenage suicide. The task force determined that although gay and lesbian teens represent only ten percent of the adolescent population, they are two to three times more likely to commit suicide than others in that age group. Many of these young people have been disowned or rejected by their families. They have been harassed at school and on the streets. Three young men in my own town of Brunswick have attempted suicide. One young woman is suicidal and is currently being counseled. I submit that this is a complete answer to those who maintain that homosexuality is a matter of choice, no one commits suicide because of a matter of choice.

I believe it is time to reaffirm our common humanity and to stop hounding young people to death. A first step in this direction is passage of L.D. 430.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and

Women of the House: I have been involved in this issue for many years now, well before I came into the legislature. In fact, it was the death of Charlie Howard in Bangor that moved me to get involved. Since his death in 1984, I am encouraged by the progress that has been made. Ten years ago, the debate in this chamber was spiced with references to queers, fags, perverts and sickos. This year, the discussion is entirely civilized.

Apparently gay people have been admitted to the human race. Gay people eat, sleep, work, and pay taxes just like other people. Gay people sometimes feel lonely and gay people sometimes feel happy, just like other people. Now this has been recognized by the tone and the comments of this legislature. That is progress, and I thank you. But, there has been more progress — today even opponents of this bill acknowledge that gay Maine citizens are subject, not just to discrimination, but also to abuse and violence. Everyone, even the opponents of this bill, think this is not right, so there is more progress. Again, I am gratified.

Now there is only one simple thing missing, this bill still hasn't passed. The civil rights of gay people to live and work in Maine without discrimination and abuse are not protected in the State of Maine. We are just about where the Blacks were in the 1950's when white moderates nodded their heads and said yes, you people deserve respect, yes what is going on is really terrible, but you have to be patient, don't try to pass controversial laws, let education take its course. Well, Black people didn't wait, they passed laws and, lo and behold, people found out that the best tools for education for a change in attitude was a new law. What education hadn't accomplished in a century, new laws achieved in a few years. Today, no one in the South would ever want to go back. A Black civil rights leader from the '50's would be familiar with what I have heard from many of you who are on the fence today, "be patient," "wait," "you can't legislate attitudes," "maybe another year." Then quite often people will pull out a stack of cards and phone messages and say, "See, people don't want this." I wonder, if there weren't the stack of letters, would the answer be different? If this were a secret ballot, would the answer be different? If you look into your hearts, would the answer be different? I think you know the answer to this, the answer is yes, this House would pass this civil rights bill.

The reason that some of us vote against this bill is not because we don't think gay people are human, it is not because we don't think gay people are abused, it is not even because we don't think the law would do good, it is because of fear. We ask, what will people say, who will use it against me, how can I respond to my friends at the bowling league or at the Elks Club if I do things like this? Because some people in this room are afraid, this law may not pass. Because this law doesn't pass, if it doesn't pass, another teenager like those referred to by Representative Pfeiffer or another teenager not so long ago from Waldo County may try to commit suicide because of shame in themselves. Another State Senator like Dale McCormick may continue to receive new death threats in the middle of the night as she did a few weeks ago. Another renter like Karen Saw may lose her apartment because her landlord doesn't like queers. Another man like Charlie Howard may be thrown off a bridge in Bangor or elsewhere.

Please don't excuse yourself by thinking that these things are not related. We may talk in civilized tones in these four walls but the message that we send out to the people in Maine is made by action, not by rhetoric. If by our actions, we say gay people are less than full human beings, if we say gay people can be legally discriminated against and abused, then don't be surprised when people out there believe it and act on those beliefs because we here are afraid to act on ours.

The cards and phone calls this year may seem to counsel against this law. In fact, they are proof that this law is needed. When someone calls and says to you, you must be queer yourself to support this bill, then you have experienced just for a moment what gay people in Maine live in fear of every day of their lives. If this kind of hatred is not acceptable to you, then vote for this bill. Don't fool yourselves that the hatred will go away with educational pamphlets, 100 years of educational pamphlets didn't do a thing about racial discrimination in the South, it took laws. Until this legislature stands up and speaks out, and until this legislature says, this is what it takes to have a civilized and free society in Maine and backs up those words with a civil rights law, such hatred will persist in the State of Maine.

The line is now drawn in the sand, you cannot be for tolerance but afraid to vote for civil rights. You cannot be for a free society but afraid to confront those who speak and spread hate. You can't be a legislator in the tradition of Jefferson and Lincoln but be afraid to vote your conscience. In the end, it goes to the heart, it goes to the heart of what we are all here for. In a year when we will be confronted with many bills which will take away services and hurt needy people, this is a chance to help someone. It doesn't cost a nickel, it doesn't add a state bureaucrat, and it doesn't hurt business in any way. It is just doing the right thing. In this upside-down year, have we forgotten what it is to do the right thing? Can we close our hearts to the suffering that exists? Can we turn our backs on those who ask for our help and protection? Every once in a long while, a bill comes along that defines the very essence of us as a people, this is one of those bills.

I ask you today to vote your hopes and not your fears, to vote your conscience and not your polls, to do the right thing and to feel proud of yourselves tomorrow. Please vote to recede and concur.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: I think it was in 1987 when this bill first came before the Maine House in which I was able to sit proudly as a Freshman legislator. I had heard stories about how past legislatures when people rose to speak in insulting, derogatory, even vile terms, about the ten percent of people who are homosexual in nature. I had hoped then that such a prejudice and fear had been relegated to the trash heap of legislative injustices along with other discriminations and cruelties. I had hoped that we could pass this bill way back then. On the day the vote was taken, I overheard two legislators with whom I was serving in a committee say, "Well, I guess we will go up and kill this bill." I was shocked and I was disbelieving. I think I was numb with sadness. I had come to like and respect the two very much, I

still do.

I have just read an article in the Kennebec Journal which said it was high time the Maine Legislature did what was right and not what was easy and pass this bill. So when the bill was debated here in this honorable chamber, I had not planned to speak but as I listened my heart pounded, I felt weak and I felt confounded. I found myself scribbling a few words and speaking to my colleagues saying I feared I would have to go home and tell my gay friends and my gay son that we would not be doing the right thing, but the easy thing. I heard gasps — perhaps it was the first time my friends had heard that someone who had a gay son might possibly sit next to them in committee.

On the next election campaign trail, I noticed there were Mainers against gays, stickers on a few car windows and posted around my district. I remember seeing such a sign on a stop sign not far from my home. I asked my husband to stop the car, we were on our way back from town, a person nearby was working in his garden with a ladder for pruning a tree or something and I asked him if I could borrow it. He lent it to me and I went over and scraped the sign off. The person who put it up came running out of his house to watch. I had to use a piece of broken glass to get it off because it was really on hard and I darn near cut my fingers getting it off but I got every last bit of it off. Well, that sign never went back up. Shortly afterwards, a person who lives in that neighborhood told my husband that he too has a gay son. He said he didn't understand it, he loved his son, his son is a good person and he accepted it. The ten percent of our neighbors may be homosexual, that is the estimate — do we deny our neighbors these basic rights which this bill protects?

In talking with legislators last time around, I tried to counter the notion that it is okay for heterosexuals to express their sexuality or even simple affection whether or not they are hoping to have a baby and it is not okay for homosexuals. This idea is not directly relevant to this bill but it does lurk in the darker recesses of the minds of some who are opposed to it. I don't think I have done a very good job in talking with my friends about this, but just a few days ago, I was given some help on the subject by a person you all know, we all know her, she caters to our nutritional needs, not far from here and she is no doubt listening now. She told me that a friend of hers said in speaking of this issue, "I love my husband so much, the closeness we feel physically and mentally is so comforting to me and so necessary to me, how could anyone want to deny those feelings and those blessings to anyone if he or she were fortunate enough to find someone with whom to share them?" What a mature, wise thought. I pray those of us here who are hung up on body parts will ponder on it.

This bill is about discrimination, it is about human diversities.

After our last vote in this chamber, an article in the Kennebec Journal again told us about an issue dealing with this bill, a caring teacher, a lesbian, who felt as though strangers had come up to her and slapped her in the face after our last vote. My fine son felt a denial of his humanity too. He knows perfectly well that passage of this bill would not end discrimination but it would mean that we reach out and take in the ten percent of us who still can be legally denied basic rights. We would take them

into the system of justice for all, which we affirm in this chamber frequently.

At my home, we have a sign in our entryway to the kitchen which says, "Don't tell me that as long as it is the wish of the majority it is okay, it is not." Protecting the least powerful among us is the whole basis of our country's system of justice. I don't know whether or not it is the wish of the majority in our state to pass this bill. Some of us believe it is. Some of us believe it isn't. It doesn't matter in matters of conscience and matters of justice. We are here to be leaders and not lemmings.

In lobbying for this bill, I have heard some "Yes, buts" and "some of my best friends", those kinds of statements. Well, I have a few — some of my best friend's statements to make. One of my best friends said gays should have to fight for their rights as hard as blacks and women have done. Well, they have. Homosexuals have been marching for their rights for years. If you don't see them in the streets of small Maine towns, don't forget that there is security in numbers. Gays have been killed, bashed, and beaten in Maine towns and, while most marches have been in large population centers, there have been some in southern Maine. I asked myself, we should all ask ourselves, has it ever been right in these United States of America where the liberty and justice system was fought for with the blood and probity of our ancestors and those who came after them from countries in which those rights are denied? Has it ever been right that they had to march and demonstrate and shed blood to get protection of their rights under our laws in these United States of America?

Another of my good friends said, "Well, when everybody gets justice, the gays will get justice." When there is a perfect world I guess. That will never happen. We are not asking for a perfect world yet.

Some of my best friends read with horror as I think too many of us did, with horror and sadness as I felt, a letter from a Maine person who used to live in my district, whose family I know well, who was abused sexually as a boy by a male friend of his father. He is obviously recovering from a terrible part of his life. That sad story is really irrelevant to this bill but I want you to know that I happen to have had a school classmate who married and she had three lovely children and later learned that their father is a homosexual. They divorced. Later, she married a heterosexual who was homophobic, I am afraid, macho type, handsome man. The answer to her prayers she thought. Well, during a hard time in their lives, our family took her three children in before she met this answer to her prayers and we grew to love them very much, they are grownup now and still very dear to us. Only last year we learned that the girls had been sexually molested by their stepfather. They still suffer and they are undergoing therapy. Do not be swayed by that letter.

Some of my best friends honestly believe passing this bill would mean encouraging the spread of AIDS. To those people I say, please think again. AIDS was first discovered in a heterosexual community in Africa. It has to do with the weakening of the immune system. It was brought to this country from another country by a male prostitute who spread it around North America. It is now spreading just as fast among heterosexuals. Does it make sense to kill a bill that would surely help homosexuals be more

willing and more open in seeking health information which would prevent the spread of AIDS?

A person who has been lobbying here to help him build a loving home for abused and abandoned children, Children's Castle, showed us a picture of his little foster daughter in her pink tutu. He said that, under that tutu, were cigarette burn scars, her abuser, dear colleagues, may not be denied his or her basic rights when he or she gets out of prison if that is where he or she is. My fine son may be if we vote no on this bill.

Recent news told us of a Maine man who smoked seven marijuana cigarettes and then, for no reason, slashed his mother to death with a butcher knife. He could be released from prison by the age of 36. He may not be denied his basic human rights by law. My fine son who has not committed any crimes still may be.

A couple of days ago, I received in the mail a letter from the Rector of the Gray Episcopal Church in Bath, I had not discussed this bill with him. The Reverend John S. Paddock wrote this in a personal letter to me, "Please be assured that the Christian Civic League does not represent all Christians in Maine. Be confident of my support for the civil rights for all citizens of this state. How God made us is not a moral question but how we treat one another is."

So, let's do what is right, not what is easy. It may even stiffen up our beleaguered Chief Executive to do the same.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Simonds

Representative SIMONDS: Mr. Speaker, Men and Women of the House: I, too, am a first time legislator but I do feel compelled to make a statement on this legislation because I feel it is perhaps one of the highest priority items that we will be faced with this year.

There are two reasons why I believe, in addition to all the very good statements and arguments that I have heard by members of the House, that we should pass this bill tonight. The first has to do with the report of the Secretary's study of teenage suicides which Representative Pfeiffer has already alluded to and which was mentioned on the Today Show a short time ago. I secured a copy of that report as perhaps others have. It is available if other members wish copies.

It seems to me, without repeating what has already been said about the extraordinarily high incidences of suicide among gay and lesbian teenagers, that the question of choice whether or not one chooses their sexual identity is pretty clear. Who would choose the isolation, the rejection, the physical and mental abuse that comes with honest disclosure of your sexual identity? Who would choose the inner anguish and pain, guilt and conflict that comes with the attempt to hide, to pass as a straight heterosexual? I suggest that this is not a bill that will influence one's developing sexual identity, it is a bill simply to protect young people, youth and young adults, who are struggling sometimes to the point of desperation to understand and to know their own identity.

The second reason has to do with the report in the paper just yesterday, already alluded here tonight, the increase in hate crimes across the country, the hate and lashing out against homosexuals

is a part of that phenomenon. In the face of all of the arguments that we have heard, in the face of the evidence that discrimination does exist, after all the debate that we have had and the widespread acknowledgment that discrimination does indeed exist and the fact that we do have a legislative remedy available to us, but if we choose not to adopt that remedy, it seems to me that we are sending a message, albeit unintended, to those who have the inclination to hate and it may be that unwittingly we give license to more gay bashings.

Finally, a comment on referendum. Breakthroughs in civil and human rights, seldom if ever, are achieved with referendum. They occur with leadership, executive leadership, legislative leadership, hopefully from both executive and legislative leadership. Under the circumstances today, I say the time has come for legislative leadership.

I urge you to join with me in this session, this week, tonight, in passing what may well be the most important bill of the session and one of our proudest achievements of the 115th Legislature.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: When we last debated this issue, I did remain silent. I listened very carefully to everything that was said. I can't remain silent any longer. I have been in this House for four terms and for each of those terms, we have debated this issue. It is one that affects all of us. I will try to show you that this bill does affect each and every one of you.

When we last debated the issue, I heard several people say that yes, there is discrimination against persons who are homosexual in our state, yet this bill is not needed. That is very, very far from the truth. I feel fortunate that our state has a law that protects people against harassment but harassment and discrimination are two different things. The harassment law cannot deal with discrimination.

This bill deals with, among other things, employment. Do we really want to force people into a situation, where despite their capabilities and their earnest desire to support themselves, to work as you and I do every day, that they are denied that right to work because of their sexual orientation, denied that right to support themselves and their loved ones? It deals with credit. How many of us here in this body can buy a home without borrowing funds? How many of us can buy a car with cash? Most of us need a loan for that purpose as well. Indeed, in today's society most of us need a loan for any large purchase. What would it feel like to be denied that credit, not because of our credit rating, denied that loan not based on our ability to repay it, but based solely on a personal characteristic? What if that loan were for a terrible emergency for which we did not have the required savings? What if we could not take care of that emergency because we were denied that credit? That can happen today to very many people in our state.

Some of us here in this body know what it is like personally to suffer discrimination or to watch our loved ones suffer discrimination, some of us perhaps do not. I come from a family that struggled in this century for a place to live and a place to do business, some of which was denied for many years

because of religious reasons. I know what it was like to listen to my grandfather describe the feelings of being denied the right to live in a certain neighborhood, being denied certain credit so he could enlarge a small business. I don't want to see any of that kind of discrimination, any of that extended to any person in our state today. We have ended most discrimination, we have a chance tonight to end a good deal of the rest of it against a group of people in our society that we have for too long ignored.

In my very large file on this issue, I have some words of a physician who was the Director of the Department of Health for Mayor Lindsay in New York, his name was Howard Brown. He was gay and hid that during the time that he held this important position in the City of New York. Finally he could not hide it any longer and, in 1973 in an address to 600 physicians at a symposium on human sexuality, Howard Brown announced that he was gay. The announcement brought in thousands of letters from homosexual physicians, lawyers, clergy, farmers, mechanics, policemen, letters from all levels of society and all parts of the country. In 1974, Dr. Brown testified at the New York City Council hearings on a bill to guarantee gay civil rights. I would like to read a short portion of his testimony. He said, "When the City Council passes this legislation, and I say 'when' for it will be passed, if not now then some day, the only change you will notice will be the rejoicing of those who happen to have come to lobby. Firemen will not announce in their firehouses that they are homosexual, policemen riding in their cars will not turn to their partners and say they are homosexual, teachers will not suddenly tell their classes that they are homosexual, the New York Times will not be flooded with people writing to say that they are homosexual. People who are homosexual will remain as they were, simply because people don't talk publicly about their sex life. But, with this legislation you will have affirmed that you believe homosexuals have the right to work, to live, and just to be every day. And in so doing," Howard Brown said, "you will have freed us from some of our anxieties. The hundreds of thousands of homosexuals in this city will feel the warmth of your decency. Do this for all of us," he asked, "do this for the people who are your neighbors and your friends, life is too short to make them wait any longer."

That legislation did pass in the New York City Council, it passed in March of 1987. We should do no less in Maine for our citizens.

There has been much discussion about the position of various clergy, various churches. I looked back again in my files and I came upon some very eloquent words by Marvin Ellison who was Associate Professor of Christian Ethics at Bangor Theological Seminary. In 1985, he testified on this bill and said that our present position is morally indefensible and a civil disgrace. He said, as we all know, there is significant arbitrary discrimination against persons who are homosexual as well as physical and verbal abuse. To condone or by silence to permit such patterns of abuse and degradation is to violate the democratic spirit of mutual tolerance and respect and to stand intention with religious calling to extend care and loving support to the strangers in our midst. To fail to protect the basic human and civil rights of some members of our community prepares the way for the infringement of the rights and freedoms

of any and all of us as well. Both our political and religious heritage in this country support the hard won wisdom that no one is free until all are free. To live in a just society is to risk living together with persons and groups who may differ from us but who nonetheless are valuable and important to our own well being because they are part of our common humanity. Professor Ellison asked us to take two quick tests to determine whether our community is just or not. First he said, ask how those who are least powerful, least well-off and marginalized folks, how are these folks doing? If they are not treated with dignity and respect, if their rights are not protected and honored, then all is not well among us.

Finally, he proposes a second and related test, which I believe was also included in some material that the Council of Churches made available to us this year. He said, "Would you consider trading places with those who are not well protected and guaranteed their rights under the law of the land?" Tonight that means, would you consider trading places with a person who is gay or lesbian and risk subjecting yourself to the discrimination that these people have suffered? Would you risk that? If we balk, if we would not be willing to trade places and subject ourselves to that possible discrimination, if we will not trade places with gay men and lesbians in the State of Maine, then we must amend the Human Rights Act for our own sake as well as for the sake of our fellow citizens.

I urge you tonight to think carefully and vote to recede and concur.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: I have been distressed over the past few weeks at the claims of so many people who have said that they represent the Christian point of view in opposing L.D. 430. I, myself, have received letters from church leaders who have written me the most intolerant hate-filled words that I have received in my term as a legislator so far. These people claim that they represent the views of the majority of Christians in the State of Maine. I have been called in the press a "bigot" and a "bully" by one of these people. I ask you, do I really seem like a bully?

I have been concerned about this and was very heartened and encouraged yesterday to learn that there was a press conference at the Bangor Theological Seminary where Christian leaders from other denominations spoke out in favor of this bill. Those are the people I want to refer to today because they represent the Christian views that I was brought up with and that I hold dear today. People from my own denomination, clergy, have spoken and written in support of this bill. Today I want to quote briefly a few words from the Reverend Henry Bird, the priest from St. Matthias' Episcopal Church in the town of Richmond, Maine. He says, "The Christian Civic League does not speak for me, especially in regard to the so-called, 'Gay Rights Bill.'" It is difficult to understand how any group calling itself Christian can deny basic humane treatment to any group in our society. The Bill does not require us to like anyone. Somehow the homosexual members of our human family have been selected out for special rejection and hostility, completely counter to the way the Gospel accounts indicate that Jesus would or did

treat them. Please note there is no reference here to the oft-quoted Old Testament and Epistles references so regularly used to condemn homosexuals. If we stick to those, we would still have slavery, women would have to keep their heads covered and couldn't speak in churches."

I also am aware that besides these things such as women not being able to speak in church that, not only have many Christians historically discriminated against women and slaves, that they have at one time or another hated and feared groups such as Jews, left-handed people and mentally ill people. They have called people such as myself who happen to be left-handed demons, witches, possessed, damned. Tolerance has not always existed among Christian people. Tolerance is difficult for most of us, I admit, but we humans are usually afraid of people who are different, who don't fit in with the rest of us but we all know that tolerance is right and we who profess to be Christians strive to overcome our intolerance because our God tells us we should love other people.

Father Henry Bird tells us this, "If we try to walk with the Jesus of the Gospels, we should find a Lord who would eat with homosexuals, reach out to them, embrace them and love them, just as he did with the blind, the sick, the tax collectors, the samaritans and all the others rejected and hated by his society. In the Episcopal Church, our baptismal covenant asks, "Will you seek and serve Christ in all persons, loving your neighbor as yourself and will you strive for justice and peace among all people and respect the dignity of every human being?" Our response and the response I urge you to make to this bill is, "I will with God's help."

Members of this House, I urge you to vote yes on this bill.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: Since the last time that I got up and spoke on this issue, I have received a number of calls, even today three or four. I have received many letters about my position on this vote.

I want to tell you today that I am not representing anybody's point of view but my own. I hope that anybody that votes today, regardless of how they vote, vote their own convictions, not what their bowling partners or their buddies or friends or whoever say, you vote your convictions.

I will say to you today that arguing the theories asserting that sexual orientation is a fundamental aspect of personal identity only exacerbates societies erroneous assumption that gay men and lesbian women are fundamentally different from non-gay people. I say to you that this affirmative action plan that we are asked here today to invoke is not the answer. The very thing that gay men and lesbian women are trying to have revoked, the very repression, only reinforces it by the passage of this bill. It may be a victory — there may be substantial press if this bill passes, and it may, but the fact of it is that it is not going to change attitudes, it is not going to stop gay bashing, it, if this bill existed at the time of Charlie Howard, would not have saved Charlie Howard because people think the way they think.

I say to you today the prime thing that has to occur is education. I will guarantee you that this list that was passed out to all of us that has a

number of organizations, a number of major corporations, didn't exist ten years ago and that is because of education. It is because people think today that people should be based on their competence, not their sexual preference. That is the factual side.

Again, the legal side, this issue has been in the courts for a number of years. It has not made it to the U.S. Supreme Court. A number of the cases came out of the 9th Circuit which is one of the most liberal circuits in our nation and most of the cases coming out of California and it is because a legal distinction and the arguments and the tests and the theories and the psychologists battling back and forth and the psychiatrists battling back and forth have heard it to the point of the circuit and they all realize that with homosexuality there is no evidence to show that it is an immutable characteristic, a major factor in holding out a suspect class. It is behavioral, therefore fundamentally different than traits such as race, gender and alienage. That is the legal side. We may choose here today to discard that legal side. The fact is that anything that goes through the legal process is fully heard much more than before this body any arguments that are made here today. The facts and figures that were here and asked to rely on have to be proved in a court of law as having some basis.

So, I say to you today, ladies and gentlemen, that I myself do not see anybody that is gay or lesbian any different than me, it comes down to competence, it comes down to increasing this list ten fold.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I have some remarks, much briefer than the last time. I can't help but comment on the preceding speaker. I find it interesting that, for years, those of us who have been supporting this legislation have been told that the opponents were opposing it because they were responding to their constituents and were voting as they were asked to and wanted to. Now when clearly people in general throughout this state support the legislation, we are being asked to just voice our own opinion. I find that very interesting.

Most of you heard my remarks last time so I will make my statement very brief tonight and try to respond to a common thread that I found running through those comments that were made to me by people I have talked to since we last took this bill up and that is their own personal feeling about homosexuality. I would just say as sincerely as I can to my fellow lawmakers in this body and whoever is listening outside of this room that how we feel personally is not and must not be the most important thing in our consideration of this legislation. It is the law that counts and it is your job and mine to guarantee that all citizens are protected equally under those laws. If a group or class or race of people are not accorded the same protection that anyone or everyone else is, then we must change those laws or, in this case, amend those laws to make them fair to all citizens, all citizens my fellow lawmakers, not just those we like, but those we may dislike as well. Not just those who conform to our way of thinking but those who may be marching to a different drummer. Fair to all, nothing more,

nothing less, that's all I ask.

One other brief comment. It occurred to me (and we have talked about this with a few others) ever since I have been here I have been asked to support, and have supported, legislation dealing with the so-called MacBride Principles and those of you who know what those are about, it has to do with people in Northern Ireland who, through no fault of their own, were born Irish and were brought up Catholic and have been discriminated against for a long period of time and are still being so. I would ask those several in this room who have asked me to support those Principles and who yet have found (that at least up until tonight) themselves not able to vote for this legislation to consider very strongly that we are talking about the same kind of thing, prejudice against people for who they are.

Several references have been made on several of the documents that have been passed out tonight, a lot of reading, I hope you have had the chance to do so, I just want to single out a few comments. In this statement having to do with the press conference that was mentioned a few minutes ago, the Maine Council of Churches represents the mainstream and the mainstream supports L.D. 430, again commenting on the fact that Mr. Wyman represents an extreme minority among religious persons in this state. In that press conference — which by the way there was a press conference also held in the southern part of the state which was reported on Channel 13 last night — again you had representatives of most of the mainstream religions in the state coming out very strongly in support of this legislation. The Maine Council of Churches put a pamphlet or a sheet on your desk today again saying the Christian Civic League presents its position on this bill sincerely but it cannot truthfully claim to represent a majority opinion of Maine's Christians. Although the previous speaker just alluded to this sheet, I would submit to you, how can anyone look at this sheet especially the first column of it and not realize that Maine citizens support this legislation. Whether it was ten years ago or five years ago — I am not talking about any years in the past, I am talking about the fact that anybody who looks at this sheet cannot possibly ignore the fact that this is the time and it is right. I ask you as sincerely as I can to support the motion before you.

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

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

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I simply want to make a couple of comments and responses. The speaker from Hampden, Representative Richards, suggested that we are asked to invoke an affirmative action plan tonight. Nothing could be further from the truth. I think that is a really important thing to clarify. Affirmative action plans are the kind of thing where you ask people to increase the numbers of a certain group within the ranks of your employees work force

and so on.

In this case, all this bill does is say these people, any people, should be allowed to compete without reference to their sexual orientation. It doesn't say who you have to hire. There are no quotas, there is no affirmative action, and there is no likelihood, in my opinion, that there will be any. It is completely wrong to suggest otherwise.

The other thing I just want to comment on by what he said is that this business about the immutable characteristic. It suggests that because some people believe that this is a matter of choice that that means it is not appropriate to be in this bill. I would say to you, as far as I am concerned, it isn't a matter of choice but even if you believed that it was that is irrelevant to why this is in this bill. The reason that sexual orientation is in this bill is because people who do the discriminating, people who do the hating, have chosen that characteristic, chosen that group. Hitler chose this group. That is what the pink triangle is all about that people are wearing around. That is where the choice is and the choice we have tonight is to say that that is not right.

The SPEAKER: The pending question before the House is the motion of Representative Paradis of Augusta that the House recede and concur.

The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: I would like to pair my vote with Representative Carroll of Gray. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Orono Representative O'Dea.

Representative O'DEA: I would like to pair my vote with Representative Erwin of Rumford. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Southwest Harbor, Representative Carroll.

Representative CARROLL: Pursuant to House Rule 7, I would like to pair my vote with Representative Gean of Alfred. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Dutremble.

Representative DUTREMBLE: Pursuant to House Rule 7, I would like to pair my vote with Representative Clark of Brunswick. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Ketterer.

Representative KETTERER: I request permission to pair my vote with Representative Mitchell of Vassalboro. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Swazey.

Representative SWAZEY: Pursuant to House Rule 7, I request permission to pair my vote with Representative Rand of Portland. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: I request permission to

pair my vote with Representative Aliberti of Lewiston. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Pursuant to House Rule 7, I would like to pair my vote with Representative Tardy of Palmyra. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is the motion of Representative Paradis of Augusta, that the House recede and concur. Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 31

YEA - Adams, Anthony, Cahill, M.; Carleton, Cathcart, Chonko, Coles, Constantine, Daggett, Dore, Farnsworth, Goodridge, Graham, Gray, Gwadosky, Handy, Heesch, Hoglund, Holt, Joseph, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lipman, Mahany, Manning, McKeen, Melendy, Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Pouliot, Powers, Richardson, Rydell, Salisbury, Simonds, Simpson, Skoglund, Small, Stevens, P.; Townsend, Tracy, Treat, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bowers, Butland, Clark, H.; Cote, DiPietro, Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Hale, Hanley, Heino, Hepburn, Hichborn, Hichens, Hussey, Jacques, Jalbert, Kerr, Kutasi, LaPointe, Lebowitz, Libby, Look, Lord, Luther, MacBride, Macomber, Marsano, Marsh, Martin, H.; McHenry, Merrill, Michaud, Murphy, Nash, Nutting, Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Poulin, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Saint Onge, Savage, Sheltra, Spear, Stevens, A.; Stevenson, Strout, Tammaro, Tupper, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Bennett, Boutilier, Cashman, Hastings.

PAIRED - Aliberti, Carroll, D.; Carroll, J.; Clark, M.; Crowley, Duffy, Dutremble, L.; Erwin, Gean, Ketterer, Mayo, Mitchell, E.; O'Dea, Rand, Swazey, Tardy.

Yes, 56; No, 75; Absent, 4; Paired, 16; Excused, 0.

56 having voted in the affirmative, 75 in the negative, with 4 being absent and 16 having paired, the motion to recede and concur did not prevail.

Representative Paradis of Augusta moved the House insist and ask for a Committee of Conference.

Representative Strout of Corinth requested a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: Very briefly, I would ask that you vote in favor of my motion to insist and ask for

a Committee of Conference because I think the quality of the debate that we have had here this evening and the other evening that we debated this issue shows that there are people in this body that do believe in this issue strongly. There are people who are opposed to this type of legislation who still believe that there is discrimination out there. I think it is a request from the bottom of my heart that the issue be kept alive for a while longer, that there could possibly be room for compromise, there could possibly be room to address the issues of concern. Even if you have voted against this bill, I think you recognize that all isn't perfect out there in the real world and that we deserve to give gay men and lesbian women in this state a chance. Perhaps we can come out with some legislation this session that does address these good people of our state. If you vote for my motion, we will be giving them a chance, we will be keeping the issue alive for a while longer so that we may address this together, the people, the elected people of this state. I ask that you please vote in favor of my motion to insist and ask for a Committee of Conference.

The SPEAKER: The pending question before the House is the motion of Representative Paradis of Augusta that the House insist and ask for a Committee of Conference. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 32

YEA - Adams, Anthony, Cahill, M.; Carleton, Cathcart, Chonko, Coles, Constantine, Crowley, Daggett, Dore, Farnsworth, Goodridge, Graham, Gray, Gwadosky, Handy, Heesch, Hoglund, Holt, Joseph, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lipman, Mahany, Manning, Mayo, McKeen, Melendy, Mitchell, J.; Morrison, Nadeau, Norton, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Pfeiffer, Pineau, Pouliot, Powers, Richardson, Rydell, Salisbury, Simonds, Simpson, Skoglund, Stevens, P.; Townsend, Tracy, Treat, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bowers, Butland, Carroll, J.; Clark, H.; Cote, DiPietro, Donnelly, Duffy, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Hale, Hanley, Heino, Hepburn, Hichborn, Hichens, Hussey, Jacques, Jalbert, Kerr, Ketterer, Kutasi, LaPointe, Lebowitz, Libby, Look, Lord, Luther, MacBride, Macomber, Marsano, Marsh, Martin, H.; McHenry, Merrill, Michaud, Murphy, Nash, Nutting, Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Poulin, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Saint Onge, Savage, Sheltra, Small, Spear, Stevens, A.; Stevenson, Strout, Swazey, Tammaro, Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Aliberti, Bennett, Boutilier, Carroll, D.; Cashman, Clark, M.; Erwin, Gean, Hastings, Mitchell, E.; Rand, Tardy, The Speaker.

Yes, 58; No, 80; Absent, 13; Paired, 0; Excused, 0.

58 having voted in the affirmative and 80 in the negative with 13 being absent, the motion to insist and ask for a Committee of Conference did not prevail.

Subsequently, the House voted to adhere.

Representative Marsano of Belfast moved that the House reconsider its action whereby it voted to adhere.

The SPEAKER: The pending question before the House is the motion of Representative Marsano of

Belfast that the House reconsider its action whereby it voted to adhere. Those in favor will say yes; those opposed will say no.

A viva voce vote of the House was taken.

Subsequently, the Speaker ordered a Division.

The SPEAKER: The pending question before the House is the motion of Representative Marsano of Belfast that the House reconsider its action whereby it voted to adhere. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voted in the affirmative and 78 in the negative, the motion to reconsider did not prevail.

The Chair laid before the House the following matter: Bill "An Act to Compensate Landowners for Land Value Lost because of Wildlife Restrictions" (H.P. 1039) (L.D. 1512) which was tabled earlier in the day and later today assigned pending reference.

Subsequently, was referred to the Committee on **Energy and Natural Resources**, ordered printed and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

On motion of Representative LaPointe of Auburn, Adjourned at 8:26 p.m. until Wednesday, April 17, 1991 at five o'clock in the afternoon.
