

MAINE STATE LEGISLATURE

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

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 2, 1992 to May 13, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
39th Legislative Day
Tuesday, April 13, 1993

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

Prayer by Reverend Sam A. Najjar, St. Joseph Maronite Catholic Church, Waterville.

The Journal of Monday, April 12, 1993, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

April 12, 1993

The Honorable John L. Martin
Speaker of the House
116th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

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

David C. Kitchen of Yarmouth for appointment to the Maine Real Estate Commission. David C. Kitchen is replacing Walter Foster.

Lowell T. Sherwood, Jr. of Bangor for appointment to the Maine Real Estate Commission. Lowell T. Sherwood, Jr. is replacing Hobart Harnden.

Sincerely,

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

Was read and ordered placed on file.

Bill "An Act Regarding Reciprocity of Licensing Barbers and Cosmetologists" (S.P. 401) (L.D. 1232)

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

Was referred to the Committee on Business Legislation in concurrence.

Bill "An Act Requiring a Guide for Nonresidents Hunting in Maine" (S.P. 400) (L.D. 1231)

Came from the Senate, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Was referred to the Committee on Fisheries and Wildlife in concurrence.

Bill "An Act to Facilitate the Assessment and Collection of Municipal Property Taxes" (S.P. 402) (L.D. 1233)

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

Was referred to the Committee on Taxation in concurrence.

COMMUNICATIONS

The following Communication:

BUREAU OF CORPORATIONS, ELECTIONS, AND COMMISSIONS
DEPARTMENT OF THE SECRETARY OF STATE
STATE HOUSE STATION 101
AUGUSTA, MAINE 04333

April 9, 1993

Joseph W. Mayo, Clerk
House of Representatives
State House Station 2
Augusta, Maine 04333

Dear Clerk Mayo:

Enclosed you will find errors which appear in L.D. 1197 "An Act to Apportion the State's Senate, House of Representatives and Congressional Districts."

I hope the enclosed is of assistance.

Sincerely,

S/Gary Cooper
Deputy Secretary of State

Was read and with accompanying papers ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills, Resolves 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:

Appropriations and Financial Affairs

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for the Development and Construction of Municipal Solid Waste Disposal Facilities and to Purchase Equipment and Facilities for Managing Demolition Debris" (H.P. 935) (L.D. 1258) (Presented by Representative MICHAUD of East Millinocket) (Cosponsored by Representatives: CONSTANTINE of Bar Harbor, GOULD of Greenville,

JACQUES of Waterville, Senators: HALL of Piscataquis, TITCOMB of Cumberland)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Construction of Necessary Safe Drinking Water Facilities" (H.P. 937) (L.D. 1260) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Senator: DUTREMBLE of York)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Amend the Natural Resources Protection Laws" (H.P. 936) (L.D. 1259) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Representative: GOULD of Greenville) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Housing and Economic Development

Bill "An Act to Provide Support to Maine Small Businesses" (H.P. 929) (L.D. 1252) (Presented by Representative CLEMENT of Clinton) (Cosponsored by Senator GOULD of Waldo and Representatives: GWADOSKY of Fairfield, MITCHELL of Vassalboro, Senators: CAREY of Kennebec, HANDY of Androscoggin, MARDEN of Kennebec)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Define Certain Municipal Service Charges or Payments in Lieu of Tax as Elements of Hospital Financial Requirements under the State of Maine Hospital Care Financing System" (H.P. 930) (L.D. 1253) (Presented by Representative SAXL of Bangor) (Cosponsored by Representatives: ADAMS of Portland, FAIRCLOTH of Bangor, HOG LUND of Portland, MORRISON of Bangor, SULLIVAN of Bangor)

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

On motion of Representative Treat of Gardiner, was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

Human Resources

Bill "An Act to Authorize a Demonstration Needle Exchange Program" (H.P. 933) (L.D. 1256) (Presented by Representative MITCHELL of Freeport) (Cosponsored

by Representatives: ADAMS of Portland, CATHCART of Orono, HOLT of Bath, RYDELL of Brunswick, Senator: McCORMICK of Kennebec)

Resolve, Directing the Bureau of Health to Study the Problem of Violence among Children, Teens and Young Adults (EMERGENCY) (H.P. 927) (L.D. 1250) (Presented by Representative SIMONDS of Cape Elizabeth) (Cosponsored by Representatives: CATHCART of Orono, HOG LUND of Portland, JOHNSON of South Portland, PENDEXTER of Scarborough, Senators: CONLEY of Cumberland, HARRIMAN of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Resolve, Authorizing Stephanie Burton to Sue the Town of Freeport (H.P. 928) (L.D. 1251) (Presented by Representative MITCHELL of Freeport)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Implement the Constitutional Amendment Requiring the State to Fund Mandates" (H.P. 924) (L.D. 1247) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Representatives: ADAMS of Portland, COLES of Harpswell, GEAN of Alfred, HEESCHEN of Wilton, Senator: HANDY of Androscoggin)

Bill "An Act Concerning State Transactions with Businesses in Northern Ireland" (H.P. 931) (L.D. 1254) (Presented by Representative CASHMAN of Old Town) (Cosponsored by Representative KILKELLY of Wiscasset, Senator CONLEY of Cumberland and Representatives: ADAMS of Portland, AHEARNE of Madawaska, ALIBERTI of Lewiston, BRENNAN of Portland, CARROLL of Gray, CHONKO of Topsham, DIPIETRO of South Portland, DONNELLY of Presque Isle, DORE of Auburn, FAIRCLOTH of Bangor, FITZPATRICK of Durham, HICHBORN of Howland, JACQUES of Waterville, JOSEPH of Waterville, MARTIN of Eagle Lake, MELENDY of Rockland, MITCHELL of Vassalboro, MORRISON of Bangor, O'GARA of Westbrook, PARADIS of Augusta, ROWE of Portland, SULLIVAN of Bangor, SWAZEY of Bucksport, TARDY of Palmyra, YOUNG of Limestone, Senators: BALDACCI of Penobscot, BRANNIGAN of Cumberland, ESTY of Cumberland, O'DEA of Penobscot, PARADIS of Aroostook, PEARSON of Penobscot)

RESOLUTION, Proposing an Amendment to the Constitution of Maine Providing for the Direct Election of the Attorney General and the Secretary of State (H.P. 932) (L.D. 1255) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representatives: ADAMS of Portland, CLOUTIER of South Portland, COTE of Auburn, JACQUES of Waterville, JOSEPH of Waterville, LEMKE of Westbrook, TOWNSEND of Eastport, ZIRNKILTON of Mount Desert)

Ordered Printed.
Sent up for Concurrence.

"Ought to Pass" as amended by Committee Amendment "A" (H-142) on same Resolve.

Signed:

Representative: CAMPBELL of Holden

Reports were read.

Representative Pineau of Jay moved that the House accept the Majority "Ought Not to Pass" Report.

On motion of Representative Libby of Buxton, tabled pending the motion of Representative Pineau of Jay that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Thursday, April 15, 1993.

Taxation

Bill "An Act to Clarify the Laws Pertaining to Mortgages and the Laws Pertaining to Taxation of Real Estate Transfers" (H.P. 934) (L.D. 1257) (Presented by Representative FARNSWORTH of Hallowell)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act to Change Public Hearing Requirements for Certain Railroad Grade Crossing Projects" (H.P. 926) (L.D. 1249) (Presented by Representative STROUT of Corinth) (Cosponsored by Senator PARADIS of Aroostook) (Submitted by the Department of Transportation pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Require Provision of Information to Consumers by the Public Utilities Commission" (H.P. 925) (L.D. 1248) (Presented by Representative LEMKE of Westbrook) (Cosponsored by Representatives: ADAMS of Portland, GEAN of Alfred, KONTOS of Windham)

Ordered Printed.
Sent up for Concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 255) (L.D. 334) Bill "An Act to Establish An Automobile Recycling License" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-143)

There being no objections, the above item was ordered to appear on the Consent Calendar of Thursday, April 15, 1993, 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. 93) (L.D. 247) Bill "An Act to Discontinue Legislative Approval of Technical College Collective Bargaining Agreements"

On motion of Representative Mitchell of Vassalboro, was removed from Consent Calendar, Second Day.

Subsequently, the report was read and accepted, the bill read once and assigned for second reading Thursday, April 15, 1993.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Resolve, Directing the Bureau of Banking and the Bureau of Consumer Credit Protection to Develop Additional Consumer Credit Protections (H.P. 46) (L.D. 62)

Signed:

Senators: McCORMICK of Kennebec
CAREY of Kennebec

Representatives: CARLETON of Wells
TRACY of Rome
HALE of Sanford
KUTASI of Bridgton
TOWNSEND of Canaan
ERWIN of Rumford
JOSEPH of Waterville
RAND of Portland
PINEAU of Jay

Minority Report of the same Committee reporting

(S.P. 161) (L.D. 526) Bill "An Act Concerning the Degree-granting Authority of Husson College"

(H.P. 501) (L.D. 659) Bill "An Act to Provide Protection for Mortgagees Under the Utility Laws"

(H.P. 670) (L.D. 908) Bill "An Act to Eliminate the Seasonal Legal Researcher Position at the Public Utilities Commission and to Make Certain Other Changes"

(H.P. 686) (L.D. 927) Bill "An Act to Include a Waiver Provision for the Advance Notice Required by the Public Utilities Commission for Energy Agreements and Contracts"

(H.P. 491) (L.D. 649) Bill "An Act Regarding Priorities in the Probate Code" (C. "A" H-140)

(H.P. 534) (L.D. 718) Bill "An Act to Amend the Recording Requirements for Proceedings Involving Real Estate" (C. "A" H-139)

(H.P. 401) (L.D. 514) Bill "An Act to Strengthen the State's Support Laws" (C. "A" H-138)

(H.P. 540) (L.D. 724) Bill "An Act to Amend the Mars Hill Utility District" (EMERGENCY) (C. "A" H-137)

(H.P. 185) (L.D. 237) Bill "An Act Regarding the Approval of School Warrants by Municipal Officers"

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

(H.P. 619) (L.D. 843) Bill "An Act Regarding Certification Fees for Adult Education Teachers"

On motion of Representative Mitchell of Vassalboro, was removed from Consent Calendar, Second Day.

Subsequently, the report was read accepted, the bill read once and assigned for second reading Thursday, April 15, 1993.

(H.P. 627) (L.D. 847) Bill "An Act to Authorize the Offset of Insurance Premiums"

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Amend the Civil Violation and Civil Forfeiture Laws for Natural Gas and Natural Gas Pipeline Utilities" (H.P. 519) (L.D. 703) (C. "A" H-136)

Bill "An Act to Allow Rebate Coupons in Agency Liquor Stores" (H.P. 304) (L.D. 392) (C. "A" H-141)

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 Provide an Adequate Period for the Adoption of Local Ordinances (S.P. 150) (L.D. 482) (C. "A" S-53)

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. 128 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

An Act to Change the Manner in Which Debt Service on Jail Facility Bonds Is Repaid to Counties (H.P. 43) (L.D. 59) (H. "A" H-106)

An Act to Restrict the Use of State Facilities (H.P. 223) (L.D. 291) (C. "A" H-93)

An Act to Change the Definition of Beverage Container for the Purposes of Recycling (H.P. 306) (L.D. 394) (C. "A" H-96)

An Act to Reaffirm the Prohibition of Spaghetti-lots (H.P. 467) (L.D. 604) (C. "A" H-95)

An Act to Promote Safety of School Buses (H.P. 493) (L.D. 651) (C. "A" H-94)

An Act to Amend the Laws Governing the Dimming of Lights When Following Vehicles (H.P. 498) (L.D. 656) (C. "A" H-87)

An Act to Amend the Laws Exempting Aseptic Packaging of Milk Substitutes (H.P. 544) (L.D. 740)

An Act to Eliminate the Bureau of Public Administration (H.P. 601) (L.D. 816)

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 matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

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

Resolve, Creating the Kennebec County Law Enforcement Examination Commission (EMERGENCY) (H.P. 365) (L.D. 468) (C. "A" H-68)

TABLED - April 8, 1993 by Representative PARADIS of

Augusta.
PENDING - Final Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending final passage and specially assigned for Thursday, April 15, 1993.

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

Bill "An Act to Ensure Geographically Appropriate Placement for Nursing Home Residents" (S.P. 87) (L.D. 241)

TABLED - April 8, 1993 by Representative PARADIS of Augusta.

PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and later today assigned.

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

HOUSE REPORT - Pursuant to the Constitution of Maine, Article IV, Part Third, Section 1-A on Bill "An Act to Apportion the State's Senate, House of Representatives and Congressional Districts" (H.P. 883) (L.D. 1197)

- In House, Read.

TABLED - April 12, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Further Action.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak briefly on the apportionment bill. The Apportionment Commission did meet its Constitutional mandate to produce the apportionment bill that you have before you today.

I think we were very fortunate to have had the impartial chair of Judge Jack Smith during these important, vital efforts that we put together in trying to present — which I had hopes would be a unanimous apportionment bill before the House. We spent thousands of hours dealing with the bill that you have and I would like to commend members of the Commission on both sides for all their efforts they have put forth in trying to produce a unanimous bill.

Now, it is the legislature's turn to meet its Constitutional mandate and approve an apportionment bill. In my view, it would be irresponsible for us not to make a good faith effort in both this House and the other body to enact an apportionment plan envisioned by the Constitution. However, there were some members of the Apportionment Commission, right from the outset, whose intent was to go to court. I think that is very unfortunate.

I do not believe that the Judicial System will enact or adopt a partisan bill. I find that very difficult to believe. The courts have repeatedly said that reapportionment is a legislative responsibility and that they are hesitant to deal

with an apportionment bill. The Constitution, to sum it up, says that the court is to be used as a last resort.

We were sent here by our people to do the job that we were sent here for and one of the requirements, every ten years, is to adopt an apportionment bill.

We on the Apportionment Commission, particularly as it relates to the House side, had agreed to roughly about two-thirds of what you have before you. Unfortunately, we ran out of time and could not deal with the remainder one-third of the bill. I think it is important that we try to do so. I had mentioned after the vote on April 1st to members of the other side that I would be willing to sit down and try to work out the remainder of the bill. One member said he thought that was a good idea; however, there were other members when I called the next day who said that they did not want to negotiate. I think that is very unfortunate. I don't think the courts want to deal with this issue, I know the courts do not want to deal with this issue, it is our responsibility.

I sent a letter to the Chair, Senator Hanley, about two weeks ago trying to encourage members of the apportionment committee, even though we voted and you had the bill before you, to try to work out the differences because it is our responsibility. I have not heard anything from the members of the House as to whether or not they were willing to sit down.

We did have an AG's opinion which said we had 30 days. I do not want to take the 30 days. However, I think it is vitally important that both sides sit down to try to deal with the remainder of the apportionment plan, to try to come up with some agreement, so I would request Mr. Speaker, so that we could have that time, that the Majority Leader table this bill for one legislative day.

On motion of Representative Gwadosky of Fairfield, retabled pending further action and specially assigned for Thursday, April 15, 1993.

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-114) - Committee on State and Local Government on Bill "An Act to Increase the County Share of the Government Operations Surcharge Fund" (H.P. 97) (L.D. 139)

TABLED - April 12, 1993 by Representative PARADIS of Augusta.

PENDING - Motion of Representative JOSEPH of Waterville to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: During the debate today, you will hear about property tax relief. The majority of the committee understand that the theory is good, the policy which is recorded on the statutes is good; however, realistically it is not happening. The majority of the committee felt that the cost was too

high for this piece of legislation. In fact, this bill will reduce the General Fund revenues by \$450,000 in the fiscal year 1993 and 1994.

For that reason, I urge you to vote with the Majority of the State and Local Government Committee for the Majority "Ought Not to Pass" Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I rise to speak in opposition to the pending motion. I was one of the six individuals on the committee who voted for the amended bill. We did not think that the immediate impact that this bill would have on the General Fund was appropriate, so we put together an amendment which transitions this impact over a number of years. You will not hear about that amended bill unless this motion is defeated, so I rise to speak in opposition to the motion on the floor.

County government, last year, relied upon the property tax for 75 percent of its revenue requirements. That's \$47 million out of the total \$62.5 million in county spending.

We have an opportunity here to put our money where our mouths are when it comes to property tax relief. I don't want to pass up this opportunity.

In an earlier effort to provide counties with additional sources of revenue, the legislature in 1987 enacted what was known as the Jail Operation Surcharge Fund. This new law was established for the sole purpose of reimbursing counties for costs associated with operations of the jail system. That's very important and I would ask you to take a look at the bill. It has always been that way. This fund was set up for the sole purpose of reimbursing counties for costs associated with the operation of the jail system. Yet, the way this fund has operated there is only 20 cents on the dollar that has gone back to the counties to defray jail expenses. Eighty cents on the dollar has gone to the General Fund, that is in direct contradiction to the purpose of this bill.

In the last fiscal year, counties received about \$400,000 from the fund, that's equal to about 8/10ths of 1 percent of county revenue requirements. As I said, the remaining 4/5ths of the surcharge goes to the state's General Fund.

Last fiscal year, the fines and surcharges revenue totaled more than \$22 million. Of that, \$2 million represented the 10 percent surcharge that went into the fund. So last fiscal year, this fund had \$2 million in it. Of that, 1/5th or only \$400,000 went back to the counties. The counties spend over \$20 million a year on jail operations. This is about 1/3rd of total county spending that goes for jail operations so, even if all the surcharge went to the counties for jails, this would represent only about 10 percent of what it costs the counties to operate the jails.

I signed onto the Minority "Ought to Pass" as amended Report for a reason because I think this provides us an opportunity to do something about property tax relief. I did not like the bill as proposed. I thought the impact on the General Fund would be too severe and too immediate.

I hope you have an opportunity to hear about the proposed amendment.

I ask that you join me in voting to defeat the pending motion so that we may vote on the proposed amended bill.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Ladies and Gentlemen of the House: I come from a county that is not considered wealthy. We don't count our dollars in millions, thousands or even hundreds, we count them one at a time.

County government has been taking it on the chin and has difficulty raising money because their funds must come from the property tax.

I recall standing in court numerous times listening to the judge explain to defendants how there would be a 10 percent surcharge on their fines. These surcharges were to go to operate county jails. It wasn't until last year that our newly elected sheriff started looking into these funds and found that only 2 percent was going to the jails, the rest was going to the state. This has been changed by past legislatures. The largest part of this surcharge is paid by local people who are summoned to the local district court by local law enforcement officers. I feel it is only right that this be returned to the original intent and support funding of the local county jails.

I urge you to vote with the "Ought Not to Pass" on this motion.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: A few years ago, just a couple of years ago, the name of this fund was not the Government Operation Surcharge, it was the Jail Operation Surcharge Fund as Representative Rowe has pointed out. We have corrected the misnomer that we applied to this fund because, as the good Representative pointed out, a minimum of 78 percent of the money in that fund has gone to the General Fund historically and in statute no more than 22 percent of that money can go for the original intent of funding jails at the county level.

Let me just talk a little bit about the burdens the state has imposed and continues to impose on the county jails. There are certain mandates that are placed on jail operations that the counties have to abide by but which the state has waived for its own facilities.

Secondly, in 1976, the county courts became state facilities but those jails then existing must still be maintained by the county, that is the repairs, the cost of the physical plant, the electric lights must still be borne by the counties.

Thirdly, Class A and B criminals are kept in county jails for the first nine months of the term and, in 1995, the plans are to change that to the first 12 months. We are all aware of the onerous burden and frustration that the state's lack of will in paying and reimbursing the counties in a timely fashion have placed on the county property taxpayer.

The "Ought to Pass" as amended Report has no impact in the current fiscal biennium. We have strayed from the intent of the law to provide reimbursement for the costs associated with the jail system. I think it is time that we did away with the smoke and mirrors and that we provide real property tax relief here in the legislature.

I encourage you to vote against the pending motion so that we can adopt the Minority "Ought to Pass" as amended Report with the amendments that Representative Rowe has discussed.

The SPEAKER: The Chair recognizes the

Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: Here is a person who has been in ten of the 14 county jails in the State of Maine. Why? Because I was a member of an inspection team back in the late 1970's and early 1980's when all of the counties were identified as having unsafe, illegal jails. So, the Maine County Commissioners Association, in conjunction with the Sheriffs and the then LEAA Association or representation in the State of Maine, established inspection teams. I was one who was on that inspection team. We traveled around the state looking at these jails. They were in a substandard condition according to the requirements that were laid down by the corrections people at the federal level.

What has happened over the years is that many associations from across this country have had input into establishing the required standards for correctional institutions. At that time, there was money available to some degree to help us with this problem, money in several areas, so the counties looked at the situation and realizing the mandates that they were under tried to meet this challenge so they started rebuilding in some instances and building new in others (jails) across this state. During that time, they were told that they could, if they built jails, take federal prisoners and that would be paid for by the federal government to help cover the costs of this incarceration. That is what happened.

The state also has its standards, many of which are handed down from the federal standards, and this was told to the counties by the state. We will help cover these costs by allowing the fines and fees from the court system to cover this. What has happened in the last few years is that the funds have not been going forth to the counties to help them cover this. In some instances, these county jails have these prisoners that are not being paid for and when the prisoners of the county are to be incarcerated, they have to send them out to other county jails and cover that cost from their own monies. This is not fair, this should not happen.

There was a commitment made by the State of Maine to the county jails and I think this should be forthcoming.

I urge you to defeat this motion of "Ought Not to Pass" so we may present to you a plan that I think you can feel comfortable with. For that reason, I urge you to vote no on the pending motion of "Ought Not to Pass."

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would also urge you to not accept the Majority "Ought Not to Pass" Report.

Not repeating what has been said before, I would like to say that I supported this amendment because I do believe that this has to do with integrity in government. We made a commitment to county jails and the commitment was that there would be a 10 percent surcharge on fines and that money would go to support county jails. We have since taken that money and put it into the General Fund. Obviously the state is in a terrible fiscal crisis and we have made lots of decisions to try to balance our budget. We should not be balancing our budget on the backs of municipalities or on the backs of counties and that

is in fact what we have done here. There is no cost to the General Fund this year. We have created in the amendment a process which increases the amount that goes back to the counties by 1 percent per year starting in 1994-95. It is fair and it is reasonable and I would ask you please to reject the pending motion so we could go on to adopt the committee amendment.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: My opening comments to you were that we would hear a great deal about property tax relief. All of us want property tax relief for our constituents back home. However, when people comment about monies going to the state, that state governments integrity is in question when in fact we are not keeping a commitment — I would beg to differ with those comments because in the General Fund you know that 51 percent of the General Fund goes back to our constituents, the University of Maine, Maine Maritime Academy and to our school systems. We know that about one-third of the General Fund budget goes to our constituents through human services. The bottom line, men and women of the House, is that this piece of legislation will cost or reduce funds to the General Fund of \$450,000 in 1993-94.

You have heard talk of an amendment which is on your desk and yes, it will be increment financing of this same \$450,000 debt. Heaven is paved with good intentions. This body will have an opportunity to reduce property taxes when it concerns county government. There are many proposals that will be brought before you, the restructuring of county government, the abolishment of county government, county corrections and county public safety under state jurisdiction because of the duplications. Currently in the average cost to your taxpayers for corrections or public safety in county government is 43 to 47 percent. I do believe that we need to look at this question differently. This issue is a taxation issue. Yes, if all things were as we would like them, yes, we perhaps could keep our commitment which was made by this legislature. However, it is not possible now.

I urge you to support the "Ought Not to Pass" motion.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would like to take this opportunity to read to you the fiscal note on Committee Amendment "A" — "The increase of the counties percentage share of the total fines, forfeitures and penalties including the 10 percent surcharge by 1 percent each year beginning in fiscal year 1995-96 will reduce future General Fund revenues. Each percentage increase in the percent set aside in the dedicated account for reimbursement of county jails and law enforcement services represents a reduction of General Fund revenue of approximately \$200,000 based on fiscal year 1993-94 estimates.

I would again reiterate, this will not impact the current budget, it is a future cost.

Representative Tracy of Rome requested a roll call vote.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, I would like to pose a question through the Chair.

If I remember correctly, would somebody enlighten me as to what was the original purpose of the surcharge when they passed it?

The SPEAKER: Representative Jalbert of Lisbon has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Mr. Speaker, Men and Women of the House: To respond to the question, the original purpose of the surcharge fund was established for the sole purpose of reimbursing counties for costs associated with operations of the jail system.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I wish to thank the gentleman from Portland for answering the question.

I well remember when that came up. Then, when I found out the year after that part of that money went to the General Fund, I was some disturbed. That was intended to help out law enforcement on the county level. How it got derailed to the General Fund, I don't know. I will vote against the pending motion.

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 Representative Joseph of Waterville 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. 45

YEA - Adams, Ahearne, Constantine, Dore, Dutremble, L.; Gray, Holt, Joseph, Nadeau, Paradis, P.; Walker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Cote, Cross, Daggett, Dexter, DiPietro, Driscoll, Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gean, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Heino, Hichborn, Hillock, Hoggund, Hussey, Jacques, Jalbert, Johnson, Joy, Kerr, Kilkelly, Kneeland, Kontos, Kutasi, Lemke, Lemont, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Pendexter, Pfeiffer, Pineau, Pinette, Plourde, Plowman, Poulin, Pouliot, Quint, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Townsend, E.; Townsend, G.; Tracy, Treat, True, Tufts, Vigue, Wentworth, Whitcomb, Winn, Young,

Zirnkilton.

ABSENT - Donnelly, Gamache, Ketterer, Larrivee, Libby Jack, Michael, Pendleton, Thompson, Townsend, L.; The Speaker.

Yes, 11; No, 130; Absent, 10; Paired, 0; Excused, 0.

11 having voted in the affirmative and 130 in the negative with 10 being absent, the motion did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted and the bill read once.

Committee Amendment "A" (H-114) was read by the Clerk.

Representative Rowe of Portland offered House Amendment "A" (H-145) to Committee Amendment "A" (H-114) and moved its adoption.

House Amendment "A" (H-145) to Committee Amendment "A" (H-114) was read by the Clerk.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: House Amendment "A" simply amends Committee Amendment "A" by changing the name of the Government Operation Surcharge Fund back to the Jail Operation Surcharge Fund. That makes the title of the section consistent with the spirit and purpose of the law.

You have heard several comments about the committee amendment, I will just say a little more about it. The proposed amendment would gradually increase the share of surcharges on fines going to the counties with the intention of offsetting the cost of jail operations. You have heard that counties now receive only 20 percent of the dollars in the fund. This would, over time, over a period of years, return all those funds to the counties to help defray the cost of operating the county jails. The amendment would, beginning two years from now on July 1, 1995, permit the counties to retain the full surcharge of 10 percent.

I ask that you support this motion which is before the House. Again, I think this is appropriate, we are now making the statute consistent with the purpose of the statute.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, I would pose a question to the Chair. Is there a fiscal note to this or will your two year delay on the 10 percent surcharge result in us passing that fiscal note onto the next legislature to deal with?

The SPEAKER: The Chair would advise the Representative that the fiscal note is on the original bill, I am sorry, on Committee Amendment "A" (H-114) and I will read it to you. "The increase to the counties percentage share of the total fines, forfeiture and penalties including the 10 percent surcharge of 1 percent each year beginning fiscal year 1995-96 will reduce future General Fund revenues. Each percentage increase in the percent set aside of the dedicated account for reimbursement of county jail and jail enforcement services represents a reduction of General Fund revenues of approximately \$200,000 based on fiscal year 1993-94 estimates."

Subsequently House Amendment "A" (H-145) to Committee Amendment "A" (H-114) was adopted.

Committee Amendment "A" (H-145) as amended by House Amendment "A" (H-114) thereto was adopted and the Bill assigned for second reading Thursday, April

15, 1993.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Agriculture reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-56) on Bill "An Act to Increase the Penalty for Abuse of Animals" (S.P. 82) (L.D. 195)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-56).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-56) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, April 15, 1993.

Non-Concurrent Matter

Bill "An Act Regarding Bow Hunting" (H.P. 382) (L.D. 495) on which the Bill and accompanying papers were indefinitely postponed in the House on April 6, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-85) and Senate Amendment "A" (S-59) in non-concurrence.

Representative Rotondi of Athens moved that the House recede and concur.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I request a roll call on that motion.

I would hope that you would reject the motion to recede and concur because that will put us back in a position where we allow a few select individuals of the state to kill two doe deer. If you reject that motion, then the proper motion would be to adhere, to stand by the vote that this House took last week.

If I can briefly run over what the arguments were of this 11 to 2 "Ought Not to Pass" Report — you know the legislature is always criticized as responding to special interests in negative ways. The unfortunate thing in this case is the special interests involved happens to be one of my special interests and that is the Maine Bow Hunters of the state. This morning in my local newspaper, we had the deer kill results for this past year. In the State of Maine, there were 33,000 non-resident hunters that killed 4,952 deer, a success rate of 15 percent. The estimated 175,500 Maine deer hunters tagged 23,868 deer, a success rate of barely 13 percent. Although this is a seven percent increase over the year before, it is still a far cry from the 35,000 to 42,000 deer that used to be shot in the State of Maine.

The doe permit process is working, but it is not

yet complete. The sad part about this whole thing is that the bow hunters still fail to comprehend that the deer herd in the State of Maine is not in the situation where one person should be allowed to kill two doe deer. Now, with an archery license in the State of Maine, someone can shoot a deer of either sex, that's the way it has always been. A lot of them shoot doe deer because, quite frankly, it is easier to shoot doe deer. Under this law as amended by the other body, someone would then be able to kill a doe deer in archery season and had they applied for a doe permit in the open firearm season, kill another doe deer. That means they could kill two doe deer in a state that has a doe permit process that effectively prohibits three out of every four hunters from shooting does. With all due respect, it makes no sense biologically or anything else.

I hope to see the day, because I sponsored the doe permit for the State of Maine for the department, that someday the muzzle loaders will be able to kill two deer and the archery people will be able to kill two deer but the simple fact of the matter, that day has not come. You will be giving them a privilege that even landowners who have two, three, four, and five hundred acres of land that allow those very bow hunters as well as those of us who hunt with firearms to hunt on their land, to kill doe on their land, but they can't kill one doe on their land or their grandchildren can't or their children can't but we are going to allow a select few of the 12,000 bow hunters in the State of Maine to kill two doe deer.

This House took a very, I think, wise, long-term, far-thinking vote the other day and it was based on some sound reasons. And, as a member of this body that used to the former Chief Game Warden, I always remember when I went to visit him in his office there was a sign behind his desk that showed a fishing line and that line went down below the water level and the bottom of that sign said, "The resource is the bottom line." That sign impressed me 14 years ago or so when I walked into that office and saw that sign and it still impresses me today.

This issue is an issue of the resource being the bottom line. It is unfortunate indeed that the bow hunters of the State of Maine do not realize the potential harm that they are doing in seeking out this special self-interest.

I would urge you to vote against the motion to recede and concur so this House can adhere and do what is best for the resource for a change.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in support of Representative Rotondi's motion.

Since we last saw this bill, it has been amended to sunset January 1, 1995 if enacted. With this sunset provision, we have the opportunity to enact this bill and see its effect with no immediate harm to the resource, which was so stated by the Commissioner of the Inland Fisheries and Wildlife.

This bill is in place in all the other New England states. For example, New Hampshire has 18,319 bow hunter licenses, that is 8,000 more than the State of Maine and they have 183,000 less deer in their herd. I hope you support this motion.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw. Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: The committee has had this

bill before and if you pass to give the bow hunters an extra doe, I hope that we can have a bill up here next week to give the black powder people because I know this committee in this House would not want to operate anything on a so-called unlevel playing field. Having no impact — the last time I knew, your dead, your dead and they don't breed very good the following year.

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 Representative Rotondi of Athens that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 46

YEA - Aikman, Aliberti, Ault, Bailey, H.; Beam, Bennett, Bruno, Campbell, Caron, Carr, Carroll, Cathcart, Daggett, Dore, Farnsworth, Fitzpatrick, Gean, Hale, Hatch, Hillock, Hogle, Hussey, Jalbert, Joy, Kilkelly, Kontos, Kutasi, Lemont, Lindahl, Lipman, Marsh, Michael, Michaud, Nickerson, Ott, Pendexter, Pineau, Plowman, Pouliot, Rand, Reed, W.; Ricker, Rotondi, Saint Onge, Simonds, Simoneau, Stevens, A.; Strout, Tardy, Tufts, Walker, Whitcomb.

NAY - Adams, Ahearne, Anderson, Bailey, R.; Barth, Bowers, Brennan, Cameron, Carleton, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Constantine, Cross, Dexter, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Foss, Gould, R. A.; Gray, Gwadosky, Heeschen, Heino, Hichborn, Holt, Jacques, Johnson, Joseph, Kerr, Kneeland, Lemke, Libby James, Look, Lord, MacBride, Marshall, Martin, H.; Melendy, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pinette, Plourde, Poulin, Quint, Reed, G.; Richardson, Robichaud, Rowe, Ruhlin, Rydell, Saxl, Skoglund, Small, Spear, Stevens, K.; Sullivan, Swazey, Taylor, Townsend, E.; Townsend, G.; Tracy, Treat, True, Vigue, Wentworth, Winn, Young, Zirkilton.

ABSENT - Cote, Donnelly, Gamache, Greenlaw, Ketterer, Larrivee, Libby Jack, Pendleton, Thompson, Townsend, L.; The Speaker.

Yes, 52; No, 88; Absent, 11; Paired, 0; Excused, 0.

52 having voted in the affirmative and 88 in the negative with 11 being absent, the motion to recede and concur did not prevail.

Subsequently, the House voted to adhere.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

SENATE PAPER

Divided Report

Majority Report of the Committee on State and

Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-55) on Bill "An Act to Make the Terms of Certain Commissioners Coterminous with the Term of the Governor" (S.P. 104) (L.D. 282)

Signed:

Senators: BERUBE of Androscoggin
ESTY of Cumberland

Representatives: DUTREMBLE of Biddeford
AHEARNE of Madawaska
WALKER of Blue Hill
KILKELLY of Wiscasset
JOSEPH of Waterville
GRAY of Sedgwick
ROWE of Portland

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: BUTLAND of Cumberland

Representatives: BENNETT of Norway
YOUNG of Limestone
LOOK of Jonesboro

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-55)

Reports were read.

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

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I urge you to vote against the pending motion and the Majority Report. This bill would require all commissioners to be reconfirmed by the legislature at the beginning of a Governor's second term. This bill has no impact on our current Governor. It is rather a philosophical issue about the roles of the Legislative and Executive Branches.

Usually a campaign for reelection of a Governor becomes a referendum on the performance of the Governor in office. Therefore, those of us on the Minority "Ought Not to Pass" Report believe that a Governor reelected by the people has received the approval of the people for his or her programs, policies and, yes, for the personnel he or she has chosen to affect those policies. We do not believe a Governor's commissioners, once confirmed, ought to have to face reconfirmation during that Governor's continuous tenure in office. If you agree, please join me in voting against the Majority Report.

I ask for a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 55 in the

negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-55) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, April 15, 1993.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

SENATE PAPERS

Ought to Pass Pursuant to Joint Order (S.P. 344)

Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**" Pursuant to Joint Order (S.P. 344) on Bill "An Act to Make Supplemental Allocations, to Transfer Positions among Funds and to Make Technical Corrections to the Laws for Fiscal Year 1992-93" (EMERGENCY) (S.P. 406) (L.D. 1264)

Came from the Senate with the Report read and the Bill and accompanying papers recommitted to the Committee on **Appropriations and Financial Affairs**.

Was read.

On motion of Representative Chonko of Topsham, the Bill and accompanying papers were recommitted to the Committee on **Appropriations and Financial Affairs** in concurrence.

Non-Concurrent Matter

Bill "An Act to Amend the Charter of the East Pittston Water District" (EMERGENCY) (H.P. 915) (L.D. 1239) which was referred to the Committee on **Taxation** in the House on April 12, 1993.

Came from the Senate referred to the Committee on **Utilities** in non-concurrence.

The House voted to recede and concur.

The following items appearing on supplement No. 4 were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Amend and Improve the Laws Related to Education" (S.P. 405) (L.D. 1263)

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 Regarding Child Molestation" (S.P. 404) (L.D. 1262)

Came from the Senate, referred to the Committee

on **Judiciary** and Ordered Printed.

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

Bill "An Act to Amend the Charter of the Kingfield Water District" (S.P. 403) (L.D. 1261)

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

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

By unanimous consent, all matters having been acted upon requiring Senate concurrence, except those held, were ordered sent forthwith to the Senate.

Representative Lemke of Westbrook was granted unanimous consent to address the House:

Representative LEMKE: Mr. Speaker, Men and Women of the House: I will please the House and amaze the Speaker by being incredibly brief.

Today marks the 250th anniversary of Thomas Jefferson's birth. Since Jefferson fought a war against unfair taxation, he was incredibly lucky not to be born two days later.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

SENATE PAPER

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-57) on Bill "An Act to Prevent Discrimination" (S.P. 92) (L.D. 246)

Signed:

Senators:

CONLEY of Cumberland
BERUBE of Androscoggin

Representatives:

LIPMAN of Augusta
CARON of Biddeford
CATHCART of Orono
FAIRCLOTH of Bangor
COTE of Auburn
FARNSWORTH of Hallowell
KETTERER of Madison
SAXL of Bangor

OTT of York

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: HANLEY of Oxford

Representative: PLOWMAN of Hampden

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-57)

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Cote.

Representative COTE: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority "Ought to Pass" Report.

I rise today to speak on behalf of the parents of gay people. Many of you are aware that I have changed my position on this very important legislation. Yes, today I will be pressing the right button and, hopefully, you will follow Mother Cote's light.

Ironically, as I sat last night preparing these remarks, my son called and told me how proud he was that I was changing my position on L.D. 246. "Mother" he said, "I am very, very proud of you."

I am also very proud to say that it is time that we accord gay people the protection they so deserve. Parents of gay people have learned and lived a lot through their life experiences. There are subtle and blatant acts of discrimination and violence against homosexuals every day.

The time has come, it is time for me, time that we all recognize that discrimination will not go away until we have that protection under the law. History has proven the merits of this statement.

We believe that no one in Maine should live in fear of being denied basic rights. Protecting the fundamental rights of victimized individuals is clearly a compelling responsibility of government.

As elected Representatives of the people, we should have the courage to provide this protection through action taken right here in the Maine Legislature.

The parents, friends, and relatives of lesbians and gay men know first-hand why L.D. 246 is needed in Maine. They know because they have seen their children fired from their jobs when someone at work didn't like gay people. They know because they have seen them lose their leases and be turned down for loans because someone, somewhere didn't like gay people. Worst of all, they have cried with their children and shared their rage when they were physically assaulted and feared to press charges because they knew they might lose their jobs if their sexual orientation were made public.

It will probably come as no surprise to hear that not all parents are overjoyed to learn that they have a lesbian or gay child. Some feel as if the son or daughter they loved is lost to them. Many wonder what they did wrong and how it can be fixed. They tell their kids and themselves that they are going through a phase. They haul them off to counselors

and psychiatrists. Sometimes when their grief is too strong to bear, they turn away from their kids entirely. Some of them never recover from the shock of discovery but most of them eventually understand that they did not make their children lesbian or gay, anymore than they made them tall or short, good at math or slow at English.

But, no matter how they ultimately feel about their children's sexual orientation, there is one thing about which all parents of gay men and lesbians agree — whether they are out marching in parades or home in the closet wishing their kids were different, they all want their children to be safe in their homes, secure in their jobs, comfortable in the places where they go to eat and drink and play. In short, they want them to live in a world where they are respected and accepted for who they are. When their children were small, they taught them the same things you taught your children, to play fair, strive to be a responsible member of the community, whether the community was the first grade or a little league team or Maine or the USA, the message was the same, rules were made for everybody. Bullying is wrong and your leaders, whether they are your first grade teacher or your little league coach or your Maine Legislator, are there to make sure that everyone gets to play by the same rules.

I was deeply moved by a mother's testimony at the public hearing as she spoke of when her daughter was first coming out as a lesbian, she wanted very much to attend a gay pride march in the city where she was working her way through school. At the same time, she feared she might lose her job if her employer learned she was gay. In a moment of black humor, she said she thought maybe she would march with a bag over her head just in case that stray television camera caught her in its sweep.

Men and women of the House, I urge you to pass this bill because I know that nobody's son or daughter should have to think about walking down any street in the world with a bag over their head. The parents of lesbians and gay men want all their children to be able to walk proudly whether they are on Congress Street in Portland or a country road in Aroostook County. When that happens, all the citizens of Maine will be able to walk proudly as well.

I urge you, men and women of the House to finally put this issue behind us by affirming that the State of Maine will not tolerate discrimination of any kind. The people of Maine are ready for the discrimination and hatred to end.

The survivor of Auschwitz death camp once said, "If they can deny you anything, they can deny you everything."

Men and women of the House, please respect the integrity of each individual and vote with Mother Cote in support of L.D. 246.

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

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: This is not the first time that this bill has been in front of this legislature and I know many people feel that in fact nothing has changed. But, the first thing I would like to say to you is, although this bill is the same bill that was here two years ago, a great deal has changed in the last two years.

In the last two years, we have had increasing

public awareness of the fact that in Maine, first of all, it is perfectly legal right now to discriminate against gay men and lesbians. It is okay under the law in this state, unfortunately, to say to a person who may have been an excellent tenant for the last five years — your gay? Well, we don't want faggots here, you are evicted. That was the testimony we got at the hearing.

It is okay in this state to say to an employee who has worked for somebody for a number of years and done a fine job, maybe even been promoted, you're one of them? you're gay? you're fired. That was the testimony that we have gotten this year, we had it before and, in my opinion, we have had greater numbers in the last few years come forward to say that this kind of discrimination is going on. That is discrimination, it is legal and it is here.

We have had an Attorney General opinion that makes clear that there is nothing in Maine law now that prevents somebody from firing, evicting, denying credit or denying access to public accommodations to somebody solely because of their orientation. In this state, that is happening based on people's sexual orientation and or their perceived sexual orientation.

This bill does not create a special class as has been suggested. Despite the fact that the discrimination that occurs is overall against people who are perceived to be gay or lesbian. The fact is the way the bill is designed is the same way every other discrimination measure has been designed and that is to say, when we learned in this state that there was a problem with discrimination against people of color, when we learned that there was a discrimination against people because of their race, we did not pick out any particular race and say that race is protected. We said, you will not discriminate based on race.

When we learned in this state that there was a problem of discrimination based on religion — and as I recall debate from previous years, I believe the earliest discrimination that was recognized was against the Baptists. Subsequently, there have been a number of other groups that people are familiar with including in some instances Catholics and in other instances Jehovah's Witnesses and I believe there is quite a list actually, historically. But, in each case, we did not take that religious group and say, this group is a protected class. What we did was say that you can not discriminate based on religion or one's religious belief.

In this case, we are not taking gay people or homosexuality or lesbianism and saying, this group is protected. We say basis of discrimination that is now going to be unacceptable is one's sexual orientation. It applies whether you are gay or not. In fact, the University of Maine, several years ago, adopted a policy prohibiting discrimination based on sexual orientation and it was reported to this legislature, I think four years ago, that the first two out of three students to file a complaint that they were discriminated against under that policy were not gay students. They were students that somebody thought were gay and, as usually happens when people discriminate or harass, they don't stop to ask if it is really true, they decided they think you look like that, they think you act like whatever that is and they discriminate or they harass. In this case, these students said, we are not gay but somebody thought we were and they have been giving us

a really hard time. That is one way that everybody in this state gets protection out of this bill.

Another way is that if in fact the employer or the landlords or whoever happened to be a gay person, they would be prohibited from denying any of their jobs or apartments solely on the basis if somebody wasn't gay. You may think that is crazy but there are places where people have had those kinds of problems as well.

The fact is that discrimination looks the same and it is the same when you get right down underneath it, no matter what group you are talking about. What discrimination is is when you take an entire group of people and you give them attributes that are usually exaggerated, stereotyped attitudes and you project that attitude on every member of that group or everybody you think is in that group and then you judge those people differently.

I am by trade, as many of you know, a lawyer. I spent many years working as a lawyer in the public sector and in particular labor law. I have a fairly analytical approach to this bill as well as my own personal commitment to it and my analytical approach comes from being a lawyer in labor/employment law. It is my belief that this bill is totally consistent with the principles of the merit system of civil service and of the basic precepts in this country that we hire people based on merit and we make job decisions based on performance.

I think if you say that we are going to do that for everybody except people that we think are gay or lesbian, which is what is legal now and which is increasingly a problem, then we begin to undermine the basic precept of the merit system. That is why when it appears there is a problem with a given group, we in the legislature, consider whether or not we should expressly state — not only do we mean you can't discriminate against people because of their color or their race, not only do we mean that you can't discriminate against people because of their sex or their religion or their national origin or their disability, but also now that we have learned that in fact people are out there judging people solely on the basis of their orientation, usually without even knowing, that is the time when the legislature is asked to correct a wrong. That is the time when we are asked to say what our policy is as a state.

In this bill, we are asked to make clear that as a state we do not stand for the proposition that it is okay to take a group of people and treat them differently, knowing that they are being treated differently.

In this case, I would say to you, that there is in addition to the fact that discrimination is happening, an additional very serious problem that has been developing with increasing frequency in the last few years, that is the other reason I would say that things have changed and there is a real need for this bill now more than there ever was, and that is the increase of hate violence. We have had two cities in this state that have adopted municipal ordinances. They did not do that because these cities happen to be bastions of liberal thinking, they did this because the law enforcement communities brought to people's attention that there was a real problem with increasing hate violence in those communities against people based on their sexual orientation or their perceived orientation and that the people who were being beaten up and occasionally

threatened with their life or almost losing it, those people are being faced with choices like, if I even report this, or even if I ask to have it prosecuted, I could lose my job, I could lose my housing. That has happened in some communities, that despite the fact that there was a very bad beating and despite the fact that it was really clear who did it and that they did it because the other person was gay, the gay person said, I can't risk losing my job, I simply cannot afford to prosecute and I don't want my name in the paper, I can't have my name associated with this, so they go away and heal themselves to save their jobs.

I ask, what kind of society is that? We have had information from the law enforcement agencies that due to the threat of groups like the Ku Klux Klan and Skinheads all over the state that this is not confined to Lewiston and Portland, this is a problem that every community needs to be aware is out there. I would submit to you that it is not all right, it is not acceptable for this state to leave people in a situation where they simply have to crawl away (literally) and heal themselves without being able to have the protection of law enforcement available to them or the prosecution of what is a terrible crime.

I would just like to briefly review what this bill is because there has been so much information about it and it is always presented in a very charged atmosphere. This bill adds two words to the policy section of the Human Rights Act and that is sexual orientation. Sexual orientation is defined to include heterosexuality as well as homosexuality and bisexuality. So, the bill itself is neutral on one's orientation. What it says is that sexual orientation may not be the basis for discrimination in employment, housing, public accommodations or credit. What that means is not that we have suddenly given any group special rights in those areas. We haven't said, if you are gay, you can now walk into any bank and say "Hey, I am gay, give me a loan" or if you are gay, you can walk into any big employer and say, "Hey, I want a job, I am gay, I know they passed that law." That is ridiculous, that is not what has happened with Jehovah's Witnesses or Baptist or Catholics or black people or any of the different groups that are protected now under the Civil Rights Law.

In the same way, what it says is that it is not okay to use that as a basis to say, if you are one of them or I think you are, I am not even going to take your application. If you are one of them, I don't care what a good job you have done, you are out of here. There is a big difference. What we are talking about here is to end the wrong of discrimination and that's all. This bill does not endorse any life-style, it does not create any new rights, it does not force any of our schools to teach on the subject of homosexuality, it does not authorize gay/lesbian marriages, it does not legalize any sexual conduct that is now criminal or otherwise prohibited by employers policies or anything else.

I would ask you, when you hear some of the examples that people raise about this to sort it out and analyze it, because when you hear an example, usually there is a stereotype buried in there, a stereotype that says gay people are bad as a group, gay people are sexually promiscuous, gay people are going to get out and molest your children, whatever it is, somewhere in there, there is an underlying assumption. I would ask you to identify that

assumption, then separate the question and substitute for homosexuality or whatever their example is of a person that they are giving you and substitute for that a heterosexual person and ask, what is the employer's recourse right now? Is the conduct described — is that already criminal, is it something you could fire a heterosexual for, is it something you could refuse to hire somebody for? In almost every case that I have seen, that is as far as you have to go because the answer is yes and the answer would stay yes even when now that you have defused the example, put back in homosexual, you don't lose the right to do any of those things.

The other thing I would ask you to do is just to remember that what we are talking about here is fundamentally a human issue that what we do as a legislature speaks sometimes much louder than the law. I believe it is time for this legislature to say on the Record that we do not support discrimination, that we believe discrimination is wrong. When we do that, I think you will find that the response will be that that gets incorporated into people's belief structures and it is one of the reasons, it is not the only one, why in other states they have not had a flood of litigation as the result of these laws passing. The other reason they haven't had a flood of litigation, in my opinion, is that it is not going to remove the stigma overnight of somebody being gay or being perceived to be gay. It is not going to be easy for people even after this bill passes to step out and say, "Oh, I am gay and this was a problem." They still have to worry about all the things they have worried about before and this bill won't change that but it will allow people to protect their life from being beaten up, it will allow people the same freedom somebody else has to walk down the street or apply for a job. That is, I think, fundamental in this day and age.

I would ask this legislature to seriously consider this the kind of legislation that we cannot do without. We cannot afford to have a statement from this legislature at this point that discrimination can continue to be legal and I ask for your unqualified support of this bill.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative FAIRCLOTH: Mr. Speaker, Colleagues of the House: I rise as a member of the Judiciary Committee and a proud cosponsor of L.D. 246, which merely provides that there not be discrimination based on sexual orientation within employment, housing, public accommodations and credit.

L.D. 246 also permits discrimination within the membership of fraternal organizations. L.D. 246 also permits continued discrimination within religious organizations, provides carte blanche to religious organizations to discriminate under L.D. 246 on the basis of sexual orientation. So, I consider this to be a very moderate proposal and that in a nutshell is its entirety. Yet, I have received many phone calls, letters and postcards urging me to look to the Bible for guidance with regard to this issue. That is wise counsel.

The great leaders of the century whom I most admire, leaders who died in the cause of justice, the Reverend Dr. Martin Luther King, Senator Robert F. Kennedy and Mahatma Gandhi, all, including the Hindu Gandhi, looked to the Bible for the great wisdom contained therein.

I consulted with a constituent, the Reverend

Burton Throtmortin. Professor Throtmortin received his Bachelor of Divinity from Union Theological Seminary and attended Columbia University for his PhD. He is an ordained clergyman and taught at Princeton and Wellesley before coming to Bangor Theological Seminary 40 years ago where he has earned a world-wide reputation as a Biblical scholar and where he now serves as Hayes Professor Emeritus. Professor Throtmortin confirms that the Bible condemns homosexual conduct among men, though he notes that the Bible never mentions lesbian conduct one way or the other. The Bible also condemns, he points out, fornication - sex among the unmarried as well as masturbation, not to mention prescribing death by stoning for adulterers. The Bible prohibits the eating of pig and the mixing of certain threads in cloth. Indeed, the Bible condemns the eating of shellfish, a prohibition that would include Maine lobster. The Bible is a great document, I consider it to be a Holy document but those who choose to use the Bible as a justification for discrimination need, at a minimum, to be consistent in the application of that discrimination.

I also asked Professor Throtmortin about the medical opinion of the American Psychiatric Association and the opinion of the American Psychological Association that homosexuality is a status, a state of being, an orientation rather than a preference. Professor Throtmortin confirmed that, while it is accepted in the 20th Century that homosexuality is a status, that concept was unknown in the time of the scriptures just as many things we accept today were unknown in Biblical times. The method of preparing pigs to eat so as to avoid trichinosis, for example. The status of homosexuality was never condemned according to Professor Throtmortin in Biblical times because they did not contemplate it.

When I was young I had a friend who, though I did not know it then, was struggling with his sexuality and the growing understanding that he was gay. This friend did not want to be gay. Who wants to be subject to hatred? He struggled mightily to convince himself and others that he was heterosexual. He was not. This friend was no saint, no better nor worse than many of my other friends growing up, but though he was different from me, he is my friend. And, am I going to say to him that he can be fired from his job because of something that is nobody else's business? Am I going to say to my friend that he can be tossed out of his apartment building because of who he is? Am I going to say to my friend that he can beat up in a hate crime but he can't go to the cops because, if he does, he can be evicted or fired? No, I cannot say that, it is wrong to permit such discrimination. Every gay person was somebody's friend growing up. They were somebody's son or daughter.

This is indeed a simple issue as old as the scriptures. It is written in the Bible in Ephesians, Chapter 4, verses 31 and 32, "Let all bitterness and wrath and anger and clamor and evil speaking be put away from you with all malice and be Ye kind, one to another, tenderhearted, forgiving one another, even as God for Christ's sake hath forgiven you." And, James, Chapter 4, verse 12, "There is one Lord giver who is able to save and to destroy, who art Thou that judges another?" Because, you see, God is the judge, we are not the judge of those issues, God is the judge. I am confident that if God is looking down on our deliberations today, he will credit our kindness,

not our cruelty.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Township #27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 246 is before us again and if you haven't noticed, the organized news media for the past several months has been focusing on hate crimes and issues dealing with gay rights. If anyone thinks that passing L.D. 246 is going to do away with hate crimes, they have another thought. In my experiences in law enforcement for nearly 21 years, I know that when you pass or I feel that when you pass 246, if it should happen, that is going to give the gays and lesbians in the State of Maine a false sense of security. Then you are going to see them flaunting their activities and you are going to see the number of hate crimes increase (as far as I am concerned) in this state.

Imagine yourself opening the door up for gays in the military. Imagine yourself if you can - think back to the days when you first entered boot camp and how intimidated you were by the officers that were in charge. Can you imagine if one of those officers happened to be a gay man that used his influence to have a select certain people in his training academy to dine with him each evening? Imagine some of the situations that could arise from this.

Just a couple of days ago, there was a news report in a California town where a mother had shot a gay man in the back of the head five times for molesting her young son. The entire town rallied behind this lady and were convinced that she had done the right thing. If we open this state up with 246, those types of situations, I feel sure, are going to take place in Maine.

Aside from that, I know that the Maine Chamber has endorsed this piece of legislation. I spoke with Jack Dexter, I was concerned about that because I have been an advocate of the Maine Chamber for many years. Jack Dexter informed me that the vote was taken by the executive committee with only about two-thirds of the members present and it wasn't a unanimous vote. I know that the Maine Chamber in Calais doesn't endorse this bill. I asked Mr. Dexter - on an important issue like this, it would seem to me that the executive director of the Maine Chamber of Commerce would at least have the courtesy to talk to the membership, see how the membership feels. That's an important issue.

I feel that 246 is going to have a devastating impact on small businesses. It is going to open the door to small businesses defending themselves before the Human Rights Commission on the gay rights issue.

As a chairman of a board of directors for a non-profit corporation, I know that we have defended ourselves against the Human Rights Commission on a frivolous complaint that was unjustified and unfounded but we spent over \$12,000 trying to defend ourselves in that case and it isn't over with yet. Can you imagine what this is going to do to the small businesses in this state? I feel at this time that we can't afford to put another burden on the small businesses.

I know that AIDS has come up as a major impact here. Eighty-six percent of the AIDS patients in Maine, I understand, are male, homosexual males. If you look at a study in California which indicates that gay men in California experience about 500

sexual encounters in the course of a year. Can you imagine what this is going to do to increase the AIDS population in this state?

This country is spending more on AIDS research than they do on cancer and the cost of AIDS in this state in health care alone is devastating. Can you imagine what it will do if we open the floodgates and allow the gays this opportunity?

I know that the MSEA has endorsed this legislation. I have a constituent who happens to be a state employee. He asked the President of the MSEA at a meeting he was at if he knows of any state employee that was ever discriminated against because of his sexual preference? They beat around the bush but in the end he was told that the President didn't know.

I would like to say in closing that this piece of legislation, as far as I am concerned, is just another step in opening the door to telling our young people in this state that morals doesn't mean anything.

When I was a young trooper in 1966, the moral fiber of this state, as far as I am concerned, was so strong that a crook or robber couldn't steal anything and sell it in his own area. I saw those morals eroded for 20 years and, as far as I am concerned, this is just another step in eroding that moral character.

Just remember last session when we took up the gay rights legislation, it wasn't a week or two after that we had a bill to allow gay marriages and there was talk about allowing gay adoptions. As far as I am concerned, this is uncalled for, unnecessary, and I would urge all of you to follow me and vote no on L.D. 246.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: I stand today to urge your support of L.D. 246.

I first spoke on this bill two years ago. I felt then and I feel now that I could be silent no longer on the issue of discrimination.

As a Native American, I participated with the Attorney General's Task Force on Hate Crimes in a training session for Civil Rights Officers throughout the state. You must remember why that task force was formed. Hate crimes in this state are on the rise and they continue to rise.

Having been an object of discrimination throughout my entire life, even I had my eyes opened to the extent of discrimination that is out there. The numbers that were presented during this seminar were, in my opinion, not complete because there were many incidents of discrimination that were not reported or that were dismissed by the investigating authorities as just being a child's prank or only "boys will be boys." I cried that day when I heard some of the things that were happening in this state. I vowed then that when this issue came to us here in this legislature that I would do my best to help its passage.

I would point your attention to a paper that was handed to us not too long ago, published in the Bangor Daily News. The large print headline says, "Police Official Says neo-Nazi, KKK Here." That is no surprise to me. I have known they were here for years, but it is about time that we recognize exactly what it is that they are here for.

If this legislature fails to pass this particular L.D. 246, not only would we be condoning those incidents of hate crimes and violence in this state, but we would be giving official sanction to the increasing numbers of them that are happening. It is time for this state to take the next step to protect all of its citizens' rights, no matter who or what they are. All citizens deserve protection from discrimination, not only do they deserve it, but it is required in this day.

I would like to address one of Representative Bailey's comments that the passage of L.D. 246 will not do away with hate crimes. That is completely true. It will not do away with hate crimes but it will make it illegal for certain types of hate crimes and it will make it a definite crime to discriminate against people with a different sexual orientation. Failure of this bill to pass would give the perpetrators of discrimination our official blessing.

Two years ago when I spoke, I spoke about the major pieces of legislation that had been passed by the federal government, I reminded you of the Federal Indian Citizenship Act in 1924. I reminded you that it took nearly 40 years before Native Americans in Maine living on reservations could vote in federal and state elections. The Civil Rights Act itself passed in 1966 — how many years after the Civil War was fought and the Emancipation Proclamation? It is now time to do the right thing, to tell all citizens of Maine that they can be safe from unfounded discrimination.

I have heard some talk and have been asked myself what I thought about sending this issue out to referendum. Ladies and gentlemen of the House, if we sent out to referendum every important state policy question, we would still be prosecuting and persecuting the witches of Salem. We would still be bowing to the Queen and I know for a fact that we would not have the Civil Rights Act on the federal law books. It is time to take a stand, it is time to end discrimination in Maine for whatever reason.

I ask you to support passage of this bill.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I have just one statement to make concerning the statement made by Representative Farnsworth of Hallowell in reference to be dismissed for being gay. In the State of Maine, we presently have a "job at will" which means that if the boss doesn't like you, period, it doesn't matter if you are gay, black, white, you are working at his mercy, he can let you go anytime at all.

If L.D. 246 passes, what would happen is that that would give them just cause and would then protect that one group and only that group. It would be a reverse of what is supposedly happening now. So, I think we have got a like situation.

I have a question I would like to pose to anyone that wants to answer it.

A lady in the lobby yesterday stopped me, she said she had five boys and told me that three of the five boys had been molested by gay teachers. My question is, if I had an apartment where I was only going to rent the upstairs portion, if I had that apartment for rent, would I be forced to rent to a professed gay or lesbian in view of having, say, five kids on the first floor? Would I have to rent or would I still have the freedom of not having to rent to these people?

The SPEAKER: Representative Vigue of Winslow has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I would like to answer the question of Representative Vigue. First of all, no, you would not have to if you lived on the first floor in particular, as I believe that was part of the explanation.

Secondly, if you did not think the person would be a good tenant for whatever reason other than solely that they are gay, then you would not have to rent to them.

As any employer knows who is dealing with other kinds of discrimination processes, you don't have to hire somebody that is black or that is of a religious group that you don't care for or some other group that is listed in the Human Rights Act, you do not have to hire anybody. What it says is, you cannot refuse to consider their request for tenancy solely because of whatever the category is, in this case it is orientation and that would apply whether they were heterosexual or not. If you live in the same building, you are not subject to the Human Rights Act at all.

The second point you raised about this being just cause added for homosexuals is not accurate because for the same reasons that there is nothing in this bill that is exclusively for any one sexual orientation. It is simply saying that the basis of one's orientation cannot be the reason and the sole reason for an employment decision or housing or credit or whatever. It does not say that they have a right to their job. It has not been the experience in any other state that has adopted this and there have been a number of them including Vermont, Connecticut and Massachusetts, Rhode Island has an executive order now, two Canadian Provinces now also have it, and in none of these cases has it developed that there is a routine sense of their being a just cause protection for gay people. What they have is a prohibition against discrimination and that is why they only have one to two percent of their cases and where you have it is because somebody actually says, I am evicting you, I am firing you because you are gay. When somebody announces that that is their reason and the law then changes and says that is not an acceptable reason by itself, then you have a basis of discrimination but it does not create just cause.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: We have heard it here again today, as we did in the debate in the other body, and I personally cringe every time I hear someone opposed to this legislation say that "they" (meaning gays and lesbians) are already protected, that they already have the same rights and protections that others have. I would submit to you that if that were the case, and I assure you that it is not, why do so many men and women in various jobs and professions and levels of responsibility who are also gay live in fear that they will be found out? If that were the case, and I assure you it isn't, why would people like myself risk political fall-out, a risk that in my judgment is unfounded, to stand before you and the public to plead for and fight for passage of this legislation? If that were the case that they were

already protected and have these rights, and I assure you that it is not, why would so many corporations and businesses and the University of Maine, the Chamber of Commerce, religious groups as well as two of the state's most populous communities take action to ensure that those basic rights are not infringed upon because of sexual orientation?

I would digress just for a minute to respond to one of the comments of an earlier opponent who used the word imagination in one of his unfortunate descriptions. I find it interesting that those of us, and many times we are urged to listen to the opinions of various groups, whether it be the Chamber of Commerce or religious groups or others, and we take their advice, but it seems to me in this particular case, we find that it is not in our best interest to take their advice. I think we can't have it both ways in regard to the Chamber of Commerce in the example mentioned earlier.

In truth and in fact, my fellow lawmakers, none of those are the case. In a great variety of ways some extremely blatant and some oh so very subtle, people who heretofore had been highly regarded employees or quality renters or tenants or financially trustworthy, find themselves out of a job, out on the street and financially suspect and, unfortunately in some cases, all three. How do we know that this is true? After all, the opponents say we don't have enough complaints to consider this a serious issue, they say that there haven't been enough complaints to justify this legislation — of course we haven't. Why would anyone in their right mind think that we would have more complaints than we have had? The reason that more gay people don't complain is the same reason workers who aren't protected by unions don't complain. It is the same reason that teachers and professors who aren't protected by tenure don't speak out when they have been harassed or intimidated. It is the same reason why we don't have more whistleblowers willing to expose waste, duplication and harassment at the work scene. In every case I have just mentioned, the reason is the same, they are all afraid of the consequences. I submit to you that unless gays and lesbians are unshakably secure in the areas of concern of this legislation, especially employment and housing, they are no more likely to speak out or complain than any of those in the examples I just gave and that is wrong. That is what this legislation is all about. We must be able to see that the fear of this legislation lies with a very small but very vocal group of people who represent a not so surprisingly small segment of Maine's population.

I do not quarrel with their right to feel as they do. I do not quarrel with their right to speak out against this legislation nor do I even question the sincerity of their cause. I just simply, and I assure you sincerely, believe that their fears of this legislation are unfounded, their predictions inflammatory and baseless and their threats to you of repercussions are totally without a shred of evidence.

A couple of additional comments that I wanted to make — obviously none of us who support this legislation believe that the problems that bring this legislation about are going to happen over night, obviously not, but it is a beginning, a beginning that we must start today.

Secondly, I would just emphasize what two or three others have said, in spite of the inflammatory

remarks of the opponents, this is not a gay rights bill and never has been, it is an anti-discrimination bill, no more and no less.

Now, for those of you who have been here before — I have supported, sponsored, cosponsored this piece of legislation every year that I have been here and I feel no less stronger about it now than I did in 1985. For the veteran members who have heard some of these stories that I have used, especially about the death of my brother-in-law, I won't go through all of that again, but I assure the new members that I do not stand before you and take this position that I take lightly. It is serious, it is real and for people to suggest that the kinds of issues that we are talking about do not exist, just plain are not listening carefully, they do exist, they are real and we must finally this year take this action.

I urge you to support the Majority "Ought to Pass" Report.

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

Representative HOLT: Mr. Speaker, Friends and Colleagues of the House: I don't want to speak for a long time, I want just simply to read from a letter I received from a constituent very recently. It was written to someone else in this State Legislature but I feel it has not been put on the Record and it was given to me by the writer.

She says she hopes that I will support L.D. 246 to help end discrimination based on sexual orientation. She says, "I realize there have not been great numbers, as you have heard here today, of cases brought into the open of lesbians and gay men who have been fired from jobs because of their private lives, but we go through a lot just to avoid being among those statistics. I am a master plumber which should be a fairly good job ticket. Several years ago when I was preparing to change jobs, I talked with the only other woman master plumber in our area. She described being laughed at and laughed out of the office at one local plumbing firm, in spite of her license, just because she was a woman. A married, very conventionally feminine woman who happens to be a fine plumber. Needless to say, I did not apply at that shop. A similar process of elimination left me with a short list of places where I felt I could at least apply. At the next job I did accept at a firm that had 16 plumbers but had never in its 40 years employed a woman. I quickly found that prejudice against lesbians and gay men was a frequent topic of casual conversation. When these men wanted to truly humiliate someone, they referred to him as a faggot or similar term. For the year I worked there, I felt that to survive and to keep my job, I had to avoid becoming a target by being out. For that year, I basically lived a double life, resolving never to experience that again if possible. But, living that double life is a demoralizing situation and I would not wish it on anyone."

I am leaving the letter now to tell you I know from personal family experiences how demoralizing that kind of situation can be to the human spirit. She goes on to say, as you have heard today, "L.D. 246 might not change their attitudes and I don't need to have everyone think like me but it would take away from those who hold such prejudices as "the right to fire me" just because of who I am outside of work. For the last four years, I have successfully run my own plumbing business. This is obviously not a

solution for everyone but, once I chose not to live a double or closeted life and neither to run daily risks of harassment, hostility or summary firing for no reason other than my private life, it seemed to me to be the only choice remaining. So, I ask you to remember that the instances of firing or eviction that you hear about are a small fraction of the actual situations that we avoid on a daily basis by making concessions to bigots at great costs to ourselves."

You who have known me in the past in this legislature that I have described to you the demoralizing effect of such discrimination on a member of my own dear family. I ask your support today for 246.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I felt it was about time I got up and had a say on this bill. I voted for it in the last two legislatures and I intend to vote for it in this one.

There have been some points made or attempted to be made on the floor of this House today in opposition to it. I would like to touch on a couple of those points that have been made. One of those points was vigilante justice — a particular incident out in California where a mother shot and killed a person that was accused of molesting her children, was accused of molesting her children, and she shot the gentleman. Well, we have two injustices there — if indeed the person charged of molesting the children were guilty, well that's wrong, and the lady who murdered another human being, that is also wrong. Two injustices — no justice, one does not negate the other, you have two crimes, not one.

Gays in the military — we have been hearing quite a bit about that lately in the newspapers and what have you. There are a lot of military people moralizing about the good of the military. These are the very same people that for years condoned instances such as the Tailhook incident, condoned young men coming off the ships that had been out to sea for months to run rampant in towns and ports that they made calls in, paying their money down for prostitutes and what have you to let off steam, it was considered okay, it was "Look the other way." Talk about the spread of disease, I think they got — military people that are against gays in the military, in my opinion, should get another track other than morals, they've got nothing to teach me in that respect.

It's said that hate crimes will increase if this bill is passed. I don't know if that is true or not true. But, I do know that if we pass this, the police will have a tool to fight those hate crimes for the first time in this state.

It was pointed out that the Chamber of Commerce, I think it was the Chamber of Commerce that they were referring to that didn't have a unanimous attendance when the vote was taken — well, think of the laws that we have passed out of this House that we didn't have unanimous attendance. If they felt that strongly about it, they should have been there and let their voice be heard.

Small business — going to hurt small businesses, they are going to have to defend themselves. Well, I will tell you what, if they don't break the law, they won't have to be defending themselves. If a small business in Washington County fires an employee

because of their sexual orientation, then they should have to spend their money defending that. I have no sympathy for them if that is their attitude.

AIDS is spread by sexual activity. It was mentioned that one person had 500 encounters in a year. Well, obviously that person doesn't work full-time, but by the same token, AIDS, when AIDS is spread by sexual activity, it is spread by both heterosexuals and homosexuals, that's a fact of life.

Opening the door to morals — it has been stated here that (or insinuated here I guess) that the morals ten years ago or twenty years ago in this country were greater than they are now. I wonder if these are the same people that sent or attempted to send many of my generation over to Vietnam to fight an unjust war? I don't know.

People used to turn burglars in in those days. Well, they do that again today. I think a better moral teaching and a higher moral ground that we could be teaching our children is tolerance toward our fellow human beings. I think that is the high moral road, personally.

This bill protects both homosexual people and heterosexual people. If you work for someone and they have a cousin or brother or someone they want to hire — you might be a wonderful worker, you might be to work every day on time, you might do your job in an exemplary fashion, but if that person is of the mind to get rid of you and wants to hire their brother-in-law or cousin or what have you, all they have to do is accuse you of being homosexual. It doesn't make any difference if you are or not, you are out the door, try to do something about it. High morals, once again.

In closing, there are a couple of things I want to point out to you. One thing that was already pointed out earlier was that this is the celebration of Thomas Jefferson's birthday or anniversary. One of the quotes that I have here on this piece of paper, I think is pertinent in this debate today. Thomas Jefferson wrote it in 1800 in a letter to Doctor Benjamin Rush and he said, "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

In a letter that has been distributed around from the Maine Council of Churches I quote, "A society which allows and condones discrimination against those who are homosexual is not just. No one is free until all are free." If this bill loses, we all lose.

My final point — you know, I see a lot of people running around different times waving the flag, wrapping themselves in the flag, how great America is and I fully agree with them. But, I think it is easy to stand up for equal rights for those in our society that are like you and those in society that you like — the real test, the real test of freedom, the real test of whether or not you believe in equality is when you make a stand for those that you may not like, may not understand and you may even hate them. This bill does not ask you to condone them, doesn't ask you to change your feelings, it just asks you to extend equal rights to all. As Americans, I can't understand for the life of me how we can do less.

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

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I have voted for this bill the three previous times it was here when I was here but this is the first time I have spoken on it. The

first two times I voted for it, I did so because I felt it was an appropriate bill and that it presented very good logic.

Two years ago I sat through part of the hearing before the Judiciary Committee and there was one story that was told in testimony that will stay with me for the rest of my life and has convinced me of the absolute need for this bill.

The story was told by a young man who out of high school had taken a job pumping gas at a local convenience store/gas station. He had been employed by that company for several years and in the course of that time had an exemplary work record. He had been promoted on various occasions and was at one time manager of that gas station/convenience store. One day someone who knew the owner of that particular establishment said to the owner, "Do you know that this person is gay?" The owner said he didn't know that and he went and met with the manager and said, "Someone has told me that you are gay, is that true?" The man said, "Yes" because he felt he needed to be honest about it. The owner said, "You are fired right now" and that was it. That man had no recourse. He had no ability to protect his right to work. He had done nothing wrong on the job, he had not exhibited behaviors that were inappropriate, he had done his job, he had done his job well but, because the owner had the right to fire him because of his sexual orientation, he did.

To me, that is wrong. It is absolutely wrong. It is not acceptable policy for the great State of Maine to allow that kind of behavior to continue.

This bill will not stop hate crimes, but it will stop firing and evictions of people based on their sexual orientation but it won't stop firings and evictions of people for cause. This is not extra protection, this is a reasonable extension of civil rights.

Representative Bailey in his testimony described his situation of what he would perceive as a situation of someone in the military — I would suggest that what Representative Bailey was describing was sexual harassment. That is inappropriate regardless of who the perpetrator is, whether the person is homosexual or heterosexual, sexual harassment is wrong and should be outlawed.

We heard about what might happen to children. While many of us over the last several years have listened to the television and radio with the amazing reports of Pam Smart, a young, talented teacher from New Hampshire, a heterosexual teacher, who ravaged a town and destroyed many families. Her behavior was wrong. What happened was wrong. We must assure that in this state that we are not making judgments based on stereotypes, that when people are employed that they are judged on their employment, when people are renting that they are judged on their ability to be a tenant, that their credit is judged on their ability to pay their bills and that is all. That is what this bill does and I urge you to accept the Majority "Ought to Pass" Report and let us get on with other business feeling fair and just in how we do our work.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: I think this debate has gotten a little bit far afield, we are not debating gays in the military today. Personally, I would like to debate that, I would like to find out how people are so bothered about this, explain how Alexander the

Great was able to do a decent job and still be homosexual, but that is not the issue before us today.

This is a pretty straightforward bill. It affirms basic rights that I don't think any of us would wish to be deprived of. It does not create, in my understanding, any special rights. There are those who criticize homosexuality on moral or religious grounds. I do not question the sincerity of their convictions. We should never question the sincerity of anyone on any grounds. On the other hand, this country is built upon toleration of diversity. I think that is what is at issue here.

I have had a great many phone calls and letters attacking this legislation on religious grounds. Personally, I believe that religious questions, how you interpret the Bible is a very private affair and I don't think we should be getting into throwing Biblical quotations back and forth at each other and I don't intend to do that today. I would simply say that my understanding of the good book, such as it is, I don't see anywhere in the Bible where Jesus discriminated against anyone. In fact, he sought out those in his society who were discriminated against.

I come from a family of an ethnic extraction which has felt discrimination. This Easter, I spoke with my aunt and she still can remember when many years ago she and her brother were having rocks thrown at them for no other reason than their ethnic extraction. That was wrong.

I have been in places in this country and abroad where discrimination is based on the color of one's skin. That's wrong. There are societies right now that practice discrimination on the basis of one's religion, that is wrong. Any discrimination which belittles the human worth of any individual and denies basic civil rights to any individual is wrong.

Today is the 250th anniversary of the birth of Jefferson, Jefferson who wrote "All men are created equal and are endowed by their Creator with certain unalienable rights, life, liberty, the pursuit of happiness" — does any one in this chamber seriously believe that if Jefferson were here today where he would stand on this issue?

I don't personally understand homosexuality, but I don't believe it is my role either as an individual or a legislator to condone discrimination in the areas covered by this bill. A great deal has been mentioned of the fears engendered by this bill. We should not vote upon the basis of our fears. We should vote on the basis of our hopes for a better society. Therefore, I urge you to support this bill.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: We are all shaped by our backgrounds and our experiences. Despite our different background experiences, I think we all fundamentally believe that people should be treated equally under the law. I think that we all agree fundamentally that people should not be discriminated against. Unfortunately in the state now, that is not the case.

I would like to read you a brief article that was in the newspaper, in the Portland Press Herald last year. The headline was, "Portland Police Report Gay Bashing Outside Bar. Portland Police on Sunday reported an incident of gay bashing outside a Spring Street bar Friday night. Lieutenant Mark Dionne said a gay male was verbally and physically assaulted by a group of seven to ten men after he left the bar at

10:45. Officers took two of the alleged assailants into custody after a foot chase but Dionne said the police released the men when the alleged victim declined to file charges. The sad part is he fears he will lose his employment if his employer finds out he is gay, Dionne said. Dionne said the incident was the eighth known biased-related assault in the city this year."

Imagine being physically abused, being physically assaulted and feeling as if you cannot pursue legal recourse or legal remedy to that for fear of losing your job. That is not right, that is why we need this legislation. I hope you will support it.

Finally, this morning when I left to come to the legislature, my eleven year old son always says to me, "Dad, what are you going to do today?" Today I said, "We may have an opportunity to vote on a bill that will end discrimination in this state." He said, "I hope that you pass that bill." I hope that tonight I will be able to go back and tell him that the legislature did the right thing and that we did pass the bill and that we have now made discrimination illegal in this state.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: The success of our government is not defined by the multitude of laws that we pass here each day. When people look back on the 116th Legislature for those moments, those actions that define what is right about government, they are not going to come up with "The Act to Prevent the Use of Electronic Moose Calling Devices." They are not going to remember that we voted to increase the debt limit on the Newport Sewer District. They are going to remember those moments, those rare moments when we pass legislation which reinforces what is fundamental about our government. The protection of people's rights as individuals is fundamental to our system of government.

Government is about establishing public policy, it helps us all live together peacefully, productively while protecting our individual rights and by protecting our individual rights.

Government is about protecting our rights under law, to be protected equally. It is about protecting us equally from discrimination and it is about protecting our equal opportunity. L.D. 246 is one of those rare instances where we have an opportunity to pass legislation which reinforces what is fundamental about our government. When discrimination is identified in a society, a just society would take action to prevent that discrimination. If we are to claim that we have a just society, we must take that action here today to prevent discrimination which we know is happening. I urge you to support the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: My worst fears were confirmed today when we were going wide afield here on this bill. Some things have been said that I have to address. One of them was mentioning an organization which I belong to that says it is discriminating and that is the Tailhook Association. I have been to some of those conventions and I don't agree with what went on this year, this last incident, but I find it troubling that the people in this body who are talking for this bill were silent

the last four months when the civil rights were violated in the election process here in the State of Maine. I find it hypocritical.

There is an analogy here because there was a wrong that happened in Las Vegas, a dozen men's careers were ruined. One of them I knew personally, he spent five years in Hanoi representing your rights, almost died, his career is ruined, he will never see his General Star. The Secretary of the Navy, who had nothing to do with it, took responsibility for his Marines and resigned. We never saw that here, so let's put that one to rest.

Also, when we talk of the people of my generation — I went and served and I served well. And for someone that perhaps did or did not serve to belittle any of those sacrifices of the men I served with, I am insulted. I will read into the Record three men that I know that died for all of you and were with me, Captain Mike Simonds, Captain Jim Hensley, Lieutenant Nick Corelli. I feel it important that I mention the memory of these men.

Am I traveling afar? Not as far as those who affronted the honor of these men who died for you. We have to look back 300 years to those who have died for civil rights.

We fought a great Civil War to free the Black man. This is where the issue should be focused. Discrimination on a race or a minority that is clearly identifiable. Black men and women in this country came over here as slaves. It was an institution that was discriminated against for 300 years. We fought the great Civil War and freed the black man and it was not for another 100 years before they saw real freedom. That is what happened 30 years ago. We were in the great debate of Civil Rights in this country for a race and other minority races.

It was Martin Luther King, along with Lyndon Baines Johnson who said "that men should be judged not by the color of their skin but for their individual qualities." We have gone far from that.

I will tell you another experience. I have dealt with the EEOC as president of an airline union which I helped found, trying to get members of the 235 pilots, jobs after the company went out of business. I went to the largest airline in this country and talked to the chief pilot and said, these are qualified men and women (we did have women and we did have minorities, I represented every one of them) and he said, just send me the resumes of the minorities and women because we are under affirmative action and those are the only ones that will get the jobs. I said, how can you say this? He said, that is the truth. I said, these men have 15 years plus experience, many have Master's Degrees, combat veterans and the women are well qualified too. He said, I don't care about the qualifications of the women, they only need 300 hours but your men need 12,000 and they need at least two graduate degrees. I said, what is going on here and he said that is what reverse discrimination is all about and that is the friendly skies of America and that is what it is like in the crunch of reverse discrimination which comes as the next step beyond what we are doing here today.

Number one, we are raising people that have a sexual preference to the level of a minority status. How do we deal with telling whether or not they are a homosexual or not? No one has really detailed that.

I went to the EEOC and I brought this before

their committee in Washington where I was based and I talked to the man on the phone and I said, we have some serious problems about employment opportunities with quality applicants. He said, come on down and see me. When he saw me, that was it. He said, well, what complaint do you have? You are a well-educated white male. We don't deal with people like you.

I knew then that justice was not served with the original intent of the Civil Rights Bill of 1964. Yes, I was able to get jobs for all the women and they were qualified and all the minorities in that group. There were only eight of 235 that got jobs, the rest, their applications were never received.

So, I know what discrimination is about and I know what sacrifice is about and those who have beat their breast up here in saying that they are all for civil rights should realize that civil rights are for all.

Now, let's focus back on what the bill we are deciding here today. We are dealing with civil rights for those with certain sexual preference. Within four days of the passage of the Civil Rights gay referendum in Lewiston, one company that employs 150 people had 12 people come forward and declare that they were gay. The plant manager didn't know how to handle this. He said to one man, "How do I know that you are gay? Why are you doing this?" He said, "Well, they just passed the ordinance and we want to be protected." Two weeks prior, they had gave notice that there were going to be layoffs. One man said after being inquired of, "How do I know you are gay?" He said, "I am a lesbian trapped in a man's body." He was married and had four children.

This is demeaning to those homosexuals. Here is why. These homosexuals should have their rights protected. Where the problem lies ahead is this, you will have people in the workplace who will use this because they can be a chameleon and be a majority/minority at any day at any time to serve their own self-interests. That will not deal with the problem that we are here with today.

How do we deal with the litigation that will just flourish? This is a breeding ground for discriminatory litigation and it will be like quicksand, it will be constantly moving because anyone can declare they are gay, anyone in this room can and the burden of proof will be on the other party to say that you are not.

We are up here to do what is best for all the people in the State of Maine and we are under tremendous fiscal restraint because businesses are in a mass exodus in this state. Are we going to throw another burden on them that they have to deal with this? We have already seen the potential litigation, it already started before the bill was even passed. Is that fair to those that are not gay if there is a layoff that is going to be impending and then all these people declare that they are gay? I remember a few enlisted men that declared their homosexuality just because we were going to go into combat and they were pulled out of the ranks. Was that fair to those that went and sacrificed?

Then we talk about other minorities. In my squadron, there were many women and minorities of all races and they served well and they were treated with respect. And yes, the military had a quota system but these people were of the highest caliber and they never took advantage of the situation that they had and they knew they had special rights. In very few instances was this abused.

We have got to look at what we are starting today and if we go with the spirit that was there in 1963 and go ahead and raise homosexuals to the levels of Blacks and other minorities, what is next, a quota system? Or even something more bizarre — I just saw an amendment that is going to be coming up before the body if this is passed to deal with obesity, physical unattractiveness. They will be a minority also. Am I an minority? Am I physically impaired because I am over 6 foot 5? Or is Representative Brennan impaired because he is shorter than I? Where does it stop?

Discrimination is a fact of life. There is a degree that we can tolerate it and there is a degree that we can't and I will not tolerate discrimination against people in the workplace for any reason. But, how do I know who is gay and who isn't unless they present their certain sexual preference in public? We all stand that we can be fired for non-performance but we should not be shielded from that by special legislation here in the House.

As I came in here today, I saw a plaque on the wall out there and I am sure we have all passed it a thousand times, it talks about discrimination in religion and the foundation of our country. I don't believe that this homosexual, anti-discrimination legislation rises to this level. This plaque says, "In the age of intolerance and bigotry, the pilgrims of the Mayflower laid the foundation of a mighty nation wherein every man, through the countless ages, shall have liberty to worship God in his own way." That is what our country was built on and I don't feel that this legislation rises to that level and that is what we should be discussing today, does it or does it not? I don't approve and I will condemn anyone who physically abuses anyone, no matter what reason. If our laws are not being enforced for those who beat up on others — the reason doesn't have to be germane, you just don't go out and beat up on other people. If they are not being looked at, then perhaps we should look at who the police are that are enforcing those laws and the courts that are hearing those cases.

That is all I have to say and, hopefully, I won't have to get up again, but if anyone stands after me that somewhat impugns those who sacrificed in my generation, plan on seeing me rise again.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Johnson.

Representative JOHNSON: Mr. Speaker, Men and Women of the House: A few days ago, I believe it was yesterday or the day before, you received on your desks a letter from a certain young man by the name of Jim Bains of Bangor. Jim Bains was one of the three young men who participated in the death of Charles Howard. Those three young men were sent to the Maine Youth Center until their 21st birthday. I became very close with Jim Bains as a counselor who worked with him. Jim stood out in my mind because in many ways he was an exemplary young man. He did not fit the juvenile delinquent profile and yet he had committed, in his own words what he calls the ultimate act of discrimination, "I killed a man." The circumstances were very "jovial" (shall we say), the three young men were coming out one night and they were feeling good and then they spotted this person who was different. According to Jim, because he was different, it was the unknown, unsaid law in the community, that you could treat that person any way you wanted, which meant rolling him around,

making fun of him and then as a joke, throwing him off the bridge, laughing, running down the street.

These three teenagers were not juvenile delinquents in the ordinary sense of the term but they were acting out something in our community which needs to be attended to. L.D. 246 attends to that.

I worked as a volunteer coordinator in the State of Maine. Men and women will come to the agency for which I work, volunteer their time, fine men and women. I had to let one of them go because a voice from above, because of this person's alleged sexual preference. It was the worst time in my life because the man was my friend, has remained my friend, but I could do nothing, there was no recourse, there was no law. I could not stop what was happening. It does happen in state agencies, to my shame and I am sure to many of yours.

I know persons who own rental property in the greater Portland area and I know and they have said it to me that they will not rent to people who are different. That is wrong. I want to attend to that wrong.

Finally, I do want to thank Representative Faircloth, he is not only a good lawyer, he sounds like he might be a good preacher too. I am a pastor of the United Church of Christ, commonly known as the Congregational Church and as a Church, we support this bill. But, on a more deeper level, I support the bill because the basic teaching of the Church is that we accept others as they are.

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

Representative CATHCART: Mr. Speaker, Men and Women of the House: I rise to support the Majority "Ought to Pass" motion on L.D. 246. I want to urge all of you before you decide how to vote, if you still haven't made up your minds, to look closely to this white packet that was passed out to us just this morning. It has some very good information including lists of the many, many groups in the State of Maine who support this legislation.

I want to respond to a question that was not really posed for an answer, but the suggestion that there are people in this state who would pretend to be homosexual in order to keep from being fired from a job, that just doesn't have reality to me. I cannot imagine that I would actually pretend to be a lesbian, to be a member of a group that is so despised that they get beat up as Charlie Howard got beaten and thrown off that bridge in Bangor, I just don't think that is real at all.

What this bill does really is very simple, it adds the two words "sexual orientation" to the protections that are given under the Maine Human Rights Act in the areas of housing, employment, credit and public accommodations. It does not give anyone any special rights or privileges, it does not order affirmative action. What it does is allow people who are lesbian and gay to have the same rights that everyone else has in this state. It means my friend who is executive director of an agency run by Diocesan Human Relations Service would have been able to go to work on Monday morning and share with her fellow employers what she did over the weekend with her lover, her partner for life who is a lesbian. She can't do that now the way most of us can do. It would mean that my friend who had an apartment in Hampden would have been able to have her lover spend the night there or stay over the weekend without being afraid of being evicted from her

apartment, which is what happened when the landlord realized she was a lesbian, she was evicted. It means two women or two men, a couple, who have committed to sharing their lives could go to a bank and get a mortgage based on their ability to make the monthly payments and they wouldn't be denied because they are not a traditional heterosexual couple.

In short, rather than extending any special rights to gays and lesbians, what this bill really does, if we don't pass it, is extend a special right to the people who discriminate against them. This allows the individuals to fire people from their jobs, evict them from their apartments, deny loans and turn people away from restaurants and hotels as we do now simply because someone thinks that the other person might be a homosexual. This bill would change that. Four other New England states, Vermont, Massachusetts, Rhode Island and Connecticut already have outlawed such bigotry, Maine should too.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I would be remiss today if I did not speak on this issue. I say that for many reasons.

When I first arrived at the Maine House of Representatives in the 111th session, I spoke on this issue and I did one other thing, I called all the clergy in the City of Waterville because, as new legislator, I felt that it was important to get their perspective. In all cases, all denominations, I was told that this is simply a human rights issue.

I did not speak in other legislative sessions on this particular issue because there were many others who had something to say. However, as I listened to the debate this morning, I kept thinking about an event that occurred in the City of Waterville yesterday at one o'clock in the afternoon. A friend of mine, a teacher in the Waterville school system, Carroll Francis Fletcher, should be remembered here today because Mr. Fletcher, as my children spoke of him, died of AIDS on Good Friday. It was quoted today in the news release about his memorial service and funeral that occurred yesterday (that I was unable to attend) said by the Reverend Terrance McKinley, "We are here to celebrate the life of an utterly unique and significant human life, a life that was well lived."

According to the students, friends and colleagues, Carroll Francis Fletcher was a man who lived life to its fullest for 55 years until he died of AIDS on Good Friday. Mr. Fletcher came to Waterville via Milo, Maine and Reverend McKinley continued to say that he talked with Mr. Fletcher early in his discovery that he had AIDS and he would want you to deal openly and fully in honor of people like Carroll Fletcher. We are the losers, much the losers, and one of the most important quotes is "That he had the ability to teach us even in his death, to keep judgments from falling on the harsh side." This is very appropriate for us to think about Mr. Fletcher as we deliberate on this very serious human rights issue today.

I was disturbed this morning when I heard about the half-hearted support by the Maine Chamber of Commerce as was conveyed to you by a Representative here. I immediately made a call to Mr. Jack Dexter and I just received a message from him that "They do not half-heartedly support the anti-discrimination bill." Mr. Dexter stands by the statement and the

statement is, "The Executive Committee of the Maine Chamber of Commerce and Industry has voted to endorse this amendment to the Maine Human Rights Act. Most of our members noted that their companies had banned discrimination based on sexual orientation long ago. The overwhelming consensus was that this is an amendment whose time has come. Passage of this amendment is going to send a very strong, positive message from the State of Maine and that message is that we judge people in Maine based on attitude, competence, loyalty and on performance."

Another issue that disturbs me is that I will relate for the first time publicly about a friend of mine's son who is gay. My close friend's son was a student at the University of Maine. He was molested in college just a few short years ago by a person who is now an elected law enforcement official. That kind of behavior must stop. I will remind you that the letter from the Attorney General, Michael Carpenter, that says in part, "Based on our offices experience in prosecuting hate crimes, gay victims of hate crimes are the only population who are regularly subject to hate crimes without adequate, civil rights remedies."

I know that most of you have made up your minds on how you are going to vote and I respect however you will be voting but I also understand how some men and women of my generation have difficulty dealing with this issue. My husband has difficulty dealing with this issue but he is tolerant and supportive and if he were here to vote, he would be voting in favor of the Majority "Ought to Pass" Report. He has difficulty saying words connected to this issue so I ask for your tolerance and I ask for your understanding of this very basic human rights issue.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: Two years ago, I stood and spoke in favor of the previous version of this bill. I said then that this is one of those issues on which it is difficult to speak but impossible to remain silent. I also said that this is a bill in which our minds, like newlywed's quarrels, are probably already made up.

For many of you on both sides of this issue, this is a relatively easy cut and dried issue. It is not an easy issue for me. It is an issue to which I have given much personal deliberation over the past several years and I rise, therefore, not to persuade but rather to explain to you and my constituents, why I will today vote against this bill.

President Bill Clinton has advocated for the removal of the question regarding sexual orientation or preference for individuals seeking to enter the armed services. In so arguing, he has said that conduct, not status, should be the determining factor. Conduct, not status. It is in fact conduct, not status, that defines sexual orientation and it is not, in my view, prudent to establish within our human rights law a status based on conduct. There are sound reasons why courts and legislative bodies across this country have recognized gender, race, color and other classifications as protected classes within our law. We have a shameful history of discrimination in law and, yes, even in the highest law of the land, the U.S. Constitution, against people of color and against women, counting other persons in the U.S. Constitution, that is, Afro-Americans as 3/5ths of persons and condoning

their enslavement and their posing of women suffrages as dark parts of our Constitutional past.

Homosexuals have not suffered thus within the law. The problem that inevitably appears that if we establish a status based on conduct, where does this end? If you accept the status, you must accept the corollaries such recognizing full marital rights and the right to adopt children. Where does it end for other kinds of conduct, even for other genetically influenced behavior, which I believe this is. I ask you to think about that.

Perhaps we should rewrite our Human Rights Laws so that it does not reflect a laundry list of characteristics but rather a comprehensive protection that serves us all. But despite our wishes and our best intentions, this bill will not change the shameful sides of hate and discrimination in our cultural. This bill may not grant special rights but it does grant special rights status within the law, a status based on conduct. For these reasons, I will be voting no.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Ladies and Gentlemen of the House: The good Representative from Norway has asked a potent question, where does it end? It is a question worthy of consideration, a question that probably doesn't have a very good answer, at least from this Representative, because I would answer that it doesn't end, this is a part of a process that the point that we have evolved to is a consideration of another group of people for whom there are not equal rights under the law.

The poet, William Butler Yeats, you might all remember from the terrible classes you had to sit through in high school English, wrote a poem entitled "The Second Coming" and in that, Yeats in all of his poetry used a symbol, a symbol that I would like to bring to this discussion, that being of a gyre, a spiral that starts small at the base and increases as it goes on its upward path. The poem, "Second Coming" talks about a falconer being unable to control the falcon as it proceeds on its gyre and he talks a great deal about the control, this being on a cosmic sort of plane, probably not applicable here, but the gyre ought to be considered in answering the good Representative's question "where does it end?" It does not end.

The consideration of mankind and our imperfections and our desire to become more perfect continues on and on and on. We were in fact, two years ago having debated this, ending up again today debating the same bill, we are covering the same ground but we are covering it at a higher plane. The discussion, I would imagine in this chamber, the debate regarding this issue as I have heard from veteran legislators ten or fifteen years ago, was at such a low plane that the gallery had to be cleared. That has not occurred, the people here now on both sides of this issue are performe and in fact being more considerate, more thoughtful in their thinking about this issue. We are making progress, we are covering the same ground but we are in fact doing it at a much higher plane. I know that it is a fact because I have an 8 year old son name Zachary who proves that to me almost on a daily basis and did that just the other day. We were talking about nothing in particular except Zachary's need to describe a kid on a TV show that he thinks is of some great interest and I wasn't sure who he was talking

about but he described it. He said the name of the show was Full House, "Pop, you know who I am talking about, it is the kid, he's a boy, he has black hair, he fights with Michelle some of the time and some of the time they are friends and that black hair is real curly." It wasn't until after we had completed that conversation that I realized that this kid was talking about an African-American kid, yet never did it occur to Zachary to identify him as a black kid on Full House. Again, there is no answer, it doesn't end, we are just simply discussing the same issues but at a much higher plane.

I encourage you to support this Majority "Ought to Pass" Report.

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 Hampden, Representative Plowman.

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: Today we are discussing a bill called the "Act to End Discrimination." It is a noble goal, it is a goal that I would like to see happen but I don't see that this bill is actually going to do that. The fact of life that humans will hone in on the vulnerabilities of another person, whether perceived or real, kids call each other bathroom names, adolescents challenge each other's sexuality and adults make fun of each other's philosophies. It is something that happens and it is not something that you can legislate. You can't legislate tolerance, you can't legislate compassion and you can't legislate common sense. I have heard that a hundred times while we have been here. I have heard it often in my committee.

You have heard today of the progression of homosexuality and its recognition in today's society and you have heard that education has improved the understanding of homosexuality and in response many of Maine's businesses have voluntarily implemented anti-discrimination policies.

I would hope that every group, company and religious organization who endorsed this measure would first implement their own voluntary measure. Such voluntary measures would have a just credit, i.e., through the Maine Bankers Association's endorsement, employment through the many employers who belong to the Chamber of Commerce, public accommodations including restaurants and hotels, also members of the Chamber of Commerce, to name a few.

This bill asks a bit more than the ability to maintain a job, obtain credit or be able to stay in a hotel or eat in a restaurant. You have heard today that this bill is a modern version — yes it is and it is by calculation. I would submit that this bill would have had less than enthusiastic support if it required a religious organization to deny itself its beliefs.

We, the government, do not require or send valid conscientious objectors to Vietnam. Yet, if you live in an apartment building with two or more rental units or a boarding home with four or more rental units, your conscientious objections, no matter how valid to yourself, are overruled by this measure.

Just as I believe the state has no business in what anyone does in their bedroom, neither does the state have any business requiring a homeowner to forsake his valid conscientious objections and take into his own personal property a person with whom he cannot reconcile his ideology. This bill adds more than two words "sexual orientation", it also exempts religious organizations, organizations made up of people who, when they go home, are entitled to their own personal individual beliefs and freedoms as if they were still in church.

Today as we debate the need for the bill, has the question been asked, have you asked it of yourself — can we balance this proposal to provide these protections against the removal of the protections guaranteed to our citizens regarding their own personal religious beliefs? Would it be appropriate for this legislature to do this?

We can't advocate for the rights of some to the detriment of others. This bill would create yet another class of discriminated individuals. This bill could have been worked in committee, this question could have been explored. However, the compelling need to bring this bill before the break next week was deemed more appropriate than fully discussing the ramifications of this bill, discussing alternate wording or working towards a resolution which would have protected all citizens involved. This opportunity was denied in the rush to get this perfect bill out with no amendments. I object to the manner in which this bill was worked, I object to the disregard for the others in this bill and I will not support such a bill in this form.

I agree with the statement, that "discrimination in any form is not acceptable." Also, if they can deny us one thing, they can deny us everything.

Please do not choose to overlook a portion of our society who, whether you agree with their beliefs or not, deserve as much consideration as the gay community.

I urge you to reject this bill, not on its face value which is indeed a noble cause, but on the underlying discrimination that will create against an even smaller minority, the valid conscientious objector.

I will be voting no on this and I urge you to do the same.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Auburn, Representative Cote, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from West Gardiner, Representative Marsh. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from South Portland, Representative DiPietro. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, pursuant to

House Rule 7, I request permission to pair my vote with the Representative from Augusta, Representative Lipman. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Gorham, Representative Larrivee. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Canaan, Representative Townsend. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Presque Isle, Representative Donnelly. If he were present and voting, he would be voting nay; I would be voting yea.

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

Representative CARON: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Biddeford, Representative Plourde. 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 the Representative from Auburn, Representative Cote, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 47

YE - Adams, Aliberti, Beam, Bowers, Brennan, Carleton, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Dore, Faircloth, Farnsworth, Fitzpatrick, Gean, Gray, Gwadosky, Hale, Hatch, Heeschen, Hoglund, Holt, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Lemke, Lindahl, Martin, H.; Melendy, Michael, Mitchell, E.; Mitchell, J.; Morrison, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pfeiffer, Pinette, Rand, Reed, G.; Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Skoglund, Small, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, The Speaker.

NAY - Ahearne, Aikman, Anderson, Bailey, H.; Bailey, R.; Bennett, Bruno, Cameron, Campbell, Carr, Clark, Clukey, Coffman, Cross, Dexter, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Foss, Gould, R. A.; Greenlaw, Heino, Hichborn, Hillock, Hussey, Jalbert, Joy, Kneeland, Kutasi, Lemont, Libby James, Look, Lord, MacBride, Marshall, Murphy, Nash, Nickerson, Plowman, Poulin, Quint, Reed, W.; Ricker, Robichaud, Simoneau, Spear, Stevens, A.; Strout, Tardy, Taylor, True, Tufts, Vigue, Whitcomb, Winn, Young, Zirkilton.

ABSENT - Gamache, Libby Jack, Pendleton, Pineau, Pouliot, Saint Onge, Thompson.

PAIRED - Pendexter (Yes)/Marsh (No); Nadeau (Yes)/DiPietro (No); Barth (No)/Lipman (Yes); Jacques

(No)/Larrivee (yes); Michaud (No)/Townsend,L.(Yes); Ault (Yes)/Donnelly (No); Caron (Yes)/Plourde (No).

Yes, 71; No, 596; Absent, 7; Paired, 14; Excused, 0.

71 having voted in the affirmative and 59 in the negative with 7 being absent and 14 paired, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-57) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time.

Representative Coffman of Old Town offered House Amendment "A" (H-147) and moved its adoption.

House Amendment "A" (H-147) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call.

I will keep it short, everybody knows what the amendment is about and that is to send this bill out to referendum. I feel personally that this is one of two issues that we have dealt with down here that the people should decide so that their will be reflected.

Do you favor amending the Maine Human Rights Act to provide a protective class for sexual orientation? This is the statement that would be on the ballot in November and I urge you to support this.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to defeat the pending motion on this amendment.

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 would just like to let you know for your information that I believe a referendum petition has already been filed with the Secretary of State for permission to take out a referendum which would by its terms nullify this bill which we just voted on. I would suggest that I think, having had a referendum vote in Portland, having one scheduled already in Lewiston and having a third petition drive started by citizens, that to add another referendum to this is perhaps more than people of this state need to answer this question.

I would urge the defeat of this amendment.

The SPEAKER: The pending question before the House is adoption of House Amendment "A" (H-147). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 48

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Cameron, Campbell, Carr, Clark, Clukey, Coffman, Cross, Dexter, Driscoll, Dutremble, L.; Farnum, Farren, Heino, Hichborn, Hillock, Hussey, Jalbert,

Joy, Kneeland, Kutasi, Lemont, Libby James, Lindahl, Look, Lord, MacBride, Marshall, Michael, Murphy, Nash, Nickerson, Plowman, Quint, Reed, W.; Ricker, Robichaud, Rotondi, Simoneau, Spear, Strout, Tardy, Taylor, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

NAY - Adams, Bowers, Brennan, Bruno, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Dore, Erwin, Faircloth, Farnsworth, Fitzpatrick, Foss, Gean, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Hogleund, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Lemke, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Poulin, Rand, Reed, G.; Richardson, Rowe, Ruhlin, Rydell, Saxl, Simonds, Skoglund, Small, Stevens, A.; Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

ABSENT - DiPietro, Donnelly, Gamache, Larrivee, Libby Jack, Lipman, Marsh, Norton, Pendleton, Pineau, Plourde, Pouliot, Saint Onge, Thompson, Townsend, L.. Yes, 58; No, 78; Absent, 15; Paired, 0; Excused, 0.

58 having voted in the affirmative and 78 in the negative with 15 being absent, House Amendment "A" (H-147) was not adopted.

Representative Coffman of Old Town offered House Amendment "B" (H-149) and moved its adoption.

House Amendment "B" (H-149) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call.

In introducing this amendment, which you have had time to read, some members have expressed a feeling that this is a joke. Well, this is no joke. A constituent asked me to put this in and basically what he told me (in his words) was that if people, depending on their sexual preference, gets special rights, then he feels that people like himself who are fat and ugly should have special rights as well. They have been discriminated against all their lives. I can give you an example. Also this morning, I spoke to someone who works at an employment agency who verified that, that people are expressly not hired because of either their weight or how they physically look. That's a reality. Discrimination lives with us on a daily basis. There is all kinds of discrimination out there and if we open the door for one such as this, then why not everything? Why not those people who are obese or who aren't physically attractive? I think they deserve the same rights as people whose sexual preference gives them rights.

I can remember when I was a student in school, it was always the overweight kids that got beat up. That is discrimination. I can also remember being a skinny kid and being a runt in my class and I was constantly getting beat up. That is just part of growing up and being alive. I used to have to crawl home through the weeds so I wouldn't get beat up after school. My only crime was being skinny.

What about left-handed people? I wasn't going to mention that because I honestly do not want to insult anybody here but left-handed people are discriminated in life as well. You sit in the desks at school with all the right-handed arms, year after year - I wonder if my back problems today aren't a little bit

to do with that? But, we have to put up with that. Utensils that aren't left-handed, they only fit people that are right-handed, we have to use those. It isn't a light subject that I am speaking about here. There's even insinuating remarks because you are left-handed — you are either creative or you are different. I can remember those, they were biting when I was young and those were the same things that I am hearing in arguments from people because of their sexual preference and who are having the same sort of battles in their life as I faced in mind, as people who are obese face in theirs, as people who are unattractive face in theirs.

I think in order to be fair that we should cover all these people.

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 adoption of House Amendment "B" (H-149). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 49

YEA - Ahearne, Ault, Bailey, H.; Barth, Carr, Clark, Coffman, Dexter, Driscoll, Hatch, Heino, Hichborn, Jalbert, Joy, Ketterer, Kneeland, Kutasi, Lord, Marshall, Michael, Murphy, Quint, Reed, W.; Tardy, True, Tufts, Vigue.

NAY - Adams, Aikman, Aliberti, Anderson, Bailey, R.; Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Clement, Cloutier, Clukey, Coles, Constantine, Cote, Cross, Daggett, Dore, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gean, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Heeschen, Hillock, Hوجلund, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Kilkelly, Kontos, Lemke, Lemont, Libby James, Lindahl, Look, MacBride, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Plowman, Poulin, Rand, Reed, G.; Richardson, Robichaud, Rotondi, Rowe, Rydell, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Taylor, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, Whitcomb, Young, Zirnkilton, The Speaker.

ABSENT - Chonko, DiPietro, Donnelly, Gamache, Larrivee, Libby Jack, Lipman, Marsh, Pendleton, Pineau, Plourde, Pouliot, Ricker, Ruhlin, Saint Onge, Thompson, Townsend, L.; Winn.

Yes, 27; No, 106; Absent, 18; Paired, 0; Excused, 0.

27 having voted in the affirmative and 106 in the negative with 18 being absent, House Amendment "B" (H-149) was not adopted.

Representative Coffman of Old Town offered House Amendment "C" (H-151) and moved its adoption.

House Amendment "C" (H-151) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call.

If this bill passes and becomes law, the question is, how will sexual orientation be decided? I have come up with the solution, I think a person should declare his or her sexual orientation, either upon application for a driver's license or upon registration to vote, in order to be eligible for relief under the Human Rights Act. The declaration must have been made at least one year before the initiation of a complaint under the Act.

The purpose of this is to protect employers, to protect everybody who will be victims of lawsuits out there.

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 Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, I would like to pose a question to the Chair.

Mr. Speaker, what does it cost the taxpayers of Maine when we reproduce each of these amendments?

The SPEAKER: The Chair would advise the Representative, for one page, one amendment, \$20.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. The problem with this amendment is that it was tried, oh almost 60 years ago in Germany, for homosexuals, for Jews, for retarded people and I think you best think before you turn on the green light for this one.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Men and Women of the House: As everyone is well aware, there is information asked at the time of birth, on driver's licenses, on all kinds of I.D.'s, such as what your race is, what your religion is, your gender, those are all covered by civil rights. I don't understand why the problem is with this. How are we going to identify who is eligible for coverage under this civil rights legislation? Everybody else can be easily identified.

The SPEAKER: The pending question before the House is adoption of House Amendment "C" (H-151). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 50

YEA - Bailey, H.; Carr, Coffman, Dexter, Farnum, Joy, Look, Marshall, Murphy, Nickerson, Quint, True, Tufts, Vigue.

NAY - Adams, Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coles, Constantine, Cote, Cross, Daggett, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Foss, Gean, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Heino, Hichborn, Hillock, Hوجلund,

Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Lemke, Lemont, Libby James, Lindahl, MacBride, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Morrison, Nadeau, Nash, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pfeiffer, Pinette, Plowman, Poulin, Rand, Reed, G.; Reed, W.; Richardson, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, Whitcomb, Young, Zirkilton, The Speaker.

ABSENT - DiPietro, Donnelly, Gamache, Jalbert, Kneeland, Larrivee, Libby Jack, Lipman, Lord, Marsh, Mitchell, J.; Pendexter, Pendleton, Pineau, Plourde, Pouliot, Ricker, Saint Onge, Thompson, Townsend, L.; Winn.

Yes, 14; No, 116; Absent, 21; Paired, 0; Excused, 0.

14 having voted in the affirmative and 116 in the negative with 21 being absent, House Amendment "C" (H-151) was not adopted.

Representative Coffman of Old Town offered House Amendment "D" (H-152) and moved its adoption.

House Amendment "D" (H-152) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I offer this amendment to offer some protection to small businesses, employers with 10 or less employees. There is a concern here that this bill will put small employers out of business if the provisions of this bill are dealt with. I ask for — if people with 10 employees or less are required to offer the protection that this bill would offer if people are going to bring lawsuits against a small business, which I have one example here of a \$500 fine that was levied in California and yet the attorney bill for this fine was \$27,000, and that is for a wrongful firing. That is the issue that this amendment concerns.

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 Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: As you know I voted against the measure, I rise to ask that you defeat this amendment. The reason is that it would grant a premise that I don't think I granted when I voted against this bill and that would be that we would be allowing discrimination. We would be allowing it in businesses in certain circumstances and I must say that I think that is ludicrous so I would ask that you vote against the amendment.

The SPEAKER: The pending question before the House is adoption of House Amendment "D" (H-152). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 51

YEA - Ahearne, Ault, Bailey, H.; Barth, Carr, Clark, Coffman, Cross, Dexter, Driscoll, Farnum, Hillock, Jalbert, Joy, Look, Marshall, Murphy, Nickerson, Reed, W.; Taylor, True, Tufts, Vigue.

NAY - Adams, Aikman, Aliberti, Anderson, Bailey, R.; Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Chase, Chonko, Clement, Cloutier, Clukey, Coles, Constantine, Cote, Daggett, Dore, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Foss, Gean, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hatch, Heeschen, Heino, Hoglund, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Kutasi, Lemke, Lemont, Libby James, Lindahl, Lord, MacBride, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Plowman, Poulin, Quint, Rand, Reed, G.; Richardson, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, Whitcomb, Young, Zirkilton, The Speaker.

ABSENT - Cathcart, DiPietro, Donnelly, Gamache, Hichborn, Larrivee, Libby Jack, Lipman, Marsh, Pendleton, Pineau, Plourde, Pouliot, Ricker, Saint Onge, Thompson, Townsend, L.; Winn.

Yes, 23; No, 110; Absent, 18; Paired, 0; Excused, 0.

23 having voted in the affirmative and 110 in the negative with 18 being absent, House Amendment "D" (H-152) was not adopted.

Representative Libby of Buxton offered House Amendment "F" (H-159) and moved its adoption.

House Amendment "F" (H-159) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that my amendment won't be lost in the shuffle.

I rise today in support of the Boy Scouts of America and I feel strongly about this issue and I hope that you will consider it. I know you are all tired and you are probably tired of this issue as I am but I would like you to think about this for just a minute.

I would like you to support me in amending 246 to be absolutely sure that the Boy Scouts of America are exempt from this law. I do not support any kind of discrimination and, obviously, you know some of my friends are gay so I have struggled with this issue and I have talked with many of you about the issue, which is a very difficult one. But, I have not struggled with the amendment that I am presenting to you today whatsoever. I do not struggle with this because any organization, such as the Boy Scouts of America, should have the right to establish their own boundaries. The courts, in many cases, have ruled in favor of this. If you don't like the boundaries that the organization sets, you do not have to put your kids into that organization. It is as simple as that.

I would like us to not mandate, you know, a law onto organizations such as the Boy Scouts. I was a scout and I want to remind people the motto of the scouts. I was Cub Scout, a Webelo and a Boy Scout and I want you to know that it is a tremendous organization. I also want you to know that a Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean and

reverent. It is an outstanding organization. There has been a lot of issues and controversy surrounding the funding of the Boy Scouts and that's fine too. I think if the United Way doesn't want to fund the Boy Scouts, that's okay, the Boy Scouts will have to find their own funding. They are responsible for the boundaries that they set. I hope that we won't let interest groups or this body get involved in organizations such as that, they have the right of determination. The courts have said so and I thank you for your consideration.

Mr. Speaker, I would like to 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 Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I would respectfully request that people vote against this amendment. First of all, if you voted in favor of the bill and you believe that discrimination is wrong, I would request that we proceed in that direction.

This is such a large area to carve out that we are affecting the real quality of what we just did if we do this.

With respect to the Boy Scouts specifically, I was under the impression that there was a distinct possibility at least, to be honest about it, that the Boy Scouts would be considered as fraternal organization and, therefore, would be exempt under current Maine Human Rights Act Law. I understand that a question was raised about this earlier today and that an Attorney General's opinion has been requested. I don't know the answer so I am not trying to present to you that I know what the answer would be to that but I would say, if they were a fraternal organization and they do hire Boy Scouts in their positions for employees, then they would be exempt as are fraternal organizations under the law now. However, regardless of that, volunteers would not be subject to this and members of the organizations would not be subject to this Act.

As a Girl Scout, I would just like to point out further, a former Girl Scout, the Girl Scouts organizations have left this issue up to families of the scouts to make this determination about whether or not there is a problem in this regard. I would also like to point out that, as with some of the other issues that have been raised in this bill, there is an underlying stereotype here that I think is grossly unfair and distorted, although I respect the concern and that is, that anybody who would be dealing with young people, who is also homosexual, is somehow or other an inappropriate person to be dealing with children. Having sat on the Judiciary Committee now, this is my fifth year there, it is really clear that heterosexuality is no criteria all by itself for giving one a basis for dealing with children. I would say the opposite is in fact true after listening to the bills dealing with incest, dealing with sexual abuse of minors, dealing with all the other issues we face.

I would suggest to you that if in fact there is a problem with the policies of some of the organizations that they will be adjusted as time goes on and as people understand that the purpose of this bill is to prevent discrimination against a group as a class, as a group as a stereotype, and I would respectfully request that this is so contrary and so broadly drafted that it guts the bill and that you will vote against it.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: I have Mr. Carpenter's opinion and it leaves some doubt in the fact that, does the Boy Scouts organization fit as the definition of fraternal organization? There is some doubt there and that is why I wanted to make sure. I did my homework, I went down there and make sure that I talked with Mike Carpenter and so he has given me an opinion and I feel strongly that it is really important that we go ahead and pass this and make sure that they will be exempt from this.

All of those inferences that I just heard from the good Representative, I do not feel that way. I just feel that the organization has the right to make its own boundaries and that is a right that the courts have upheld. That's all I am saying and I hope that you will support my measure.

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

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: During work session, this question was posed specifically to Pat Ryan, the Commissioner of the Human Rights Commission and the Counsel that accompanied her to the work session. It was the feeling immediately from the two people there that the Boy Scouts of America would not be covered under this. If you choose to reject this amendment, the families will not even have the opportunity to debate it, as has been suggested to you by the Representative from Hallowell. It will not be something they can decide, it will already be in law and we will have lost our opportunity to address this issue.

Please take this into consideration when you vote on House Amendment "F."

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, a point of order?

The good Representative Plowman — every time she stands up to address the body, she does not recognize the Speaker nor does she recognize Representatives. Thank you.

The SPEAKER: The Chair would advise the Representative from Rome, Representative Tracy, that the point is well taken. The Chair would point out that sometimes in the course of debate, some people do get a little bit more excited than they should. That is done with some frequency and the Chair would hope that from now on, that that would be a reminder for everyone and if so requested, the Chair will make note of it.

The Chair recognizes the Representative from Bangor, Representative Faircloth.

Representative FAIRCLOTH: Mr. Speaker, Colleagues of the House: I share Representative Farnsworth's concern, I think this amendment seems to be, and I know that it is not the intent, but it seems to me to be based on a premise that homosexuals

are more likely to be pedophiles than anyone else and I reject that premise.

I also have a concern as an attorney about the way this is drafted. As I understand it, it talks about an organization that is engaged, primarily engaged, for providing recreational or civic services to persons under 18 years of age. This would capture so many things beyond the Boy Scouts. It might capture skating rinks, fast food places, ice cream stores, stores that sell rock music — I mean, this piece of legislation would have a much broader implication than just the Boy Scouts of America and I would just emphasize as to the Boy Scouts that it is my understanding that it is their position that they are a fraternal organization. It is the position of the national board that they are a fraternal organization and I, as an attorney, and I am not a judge, just an attorney, but as one attorney, it is reasonable to me to conclude that they are a fraternal organization and that they would be able to discriminate under the current version of L.D. 246. So again, it is far broader than I think the intent is of the good Representative Libby and it also I don't think is necessary as I read the understanding as to the Boy Scouts of America.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "F" (H-159). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 52

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Carr, Clark, Clukey, Coffman, Cross, Dexter, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Foss, Greenlaw, Heino, Hichborn, Hillock, Hussey, Jalbert, Joy, Kneeland, Kutasi, Lemont, Libby James, Lindahl, Look, Lord, MacBride, Marshall, Michael, Murphy, Nash, Nickerson, Plowman, Poulin, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Skoglund, Small, Spear, Strout, Tardy, Taylor, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

NAY - Adams, Beam, Bowers, Brennan, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Colles, Constantine, Cote, Daggett, Dore, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hoglund, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Lemke, Martin, H.; Melendy, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Rand, Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Stevens, A.; Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, The Speaker.

ABSENT - DiPietro, Donnelly, Gamache, Larrivee, Libby Jack, Lipman, Marsh, Michaud, Pendleton, Pineau, Plourde, Pouliot, Ricker, Saint Onge, Thompson, Townsend, L.; Winn.

Yes, 63; No, 71; Absent, 17; Paired, 0; Excused, 0.

63 having voted in the affirmative and 71 in the negative with 17 being absent, House Amendment "F" (H-159) was not adopted.

Representative Plowman of Hampden offered House Amendment "H" (H-161) and moved its adoption.

House Amendment "H" (H-161) was read by the Clerk.

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

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call.

I moved this amendment to take into consideration some of the additional discrimination that would take place against citizens with a valid conscientious objection, especially keeping in mind that this might apply to a nanny situation or a child care situation.

I would not ask that you interpret this that I would ever impugn a person's sexuality, homosexuality or whatever sexuality that we are talking about today, to say that they are automatically a child molester. I do not wish that to be interpreted as the intent of my amendment.

I believe that a man and woman or a woman or a man who has to choose the child care for their children, especially in a home situation where the person will take the place of the parent for that day, those hours, that week or whatever time is necessary, that they be able to determine the role model that they pick for their children. So, I have asked for this very small nominal consideration so that we can do that.

I would ask you to adopt House Amendment "H."

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

Representative CATHCART: Mr. Speaker, I would like to pose a question through the Chair to Representative Plowman.

I would ask Representative Plowman whether we members of this legislature are governmental or non-governmental employees. I would assume that we are governmental employees and that we would therefore be exempt from this law if it is passed? Further, would she then apply this exemption on household employees to all the categories that are now covered under the Human Rights Act, such as race, religion and so on?

The SPEAKER: The Representative from Orono, Representative Cathcart, has posed a question through the Chair to Representative Plowman of Hampden who may respond if she so desires.

The Chair recognizes that Representative.

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: There were several questions posed there. Some of them I believe are a little bit hazy.

We are governmental employees but I am not a governmental employer when I bring someone into my home. This is what we are discussing. It would not apply to a non-governmental employer. That's something very different.

A household employee — I would ask that I be able to determine the person that is best for my children, that anyone here be able to determine the person that is best suited for their children. If this were to be — this is to amend L.D. 246, I would not address this Maine Human Rights Commission Act without doing more fact-finding and present a bill to the Judiciary as is appropriate.

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 comment that this is the kind of concern people had at the point where we were adopting provisions against discrimination based on race, religion and the other features that are in the bill at the moment. The

fact that we have been able to adopt those and that this has not been a problem in those areas, I think is an indication in and of itself that an individual as an employer does not lose the right just because we have prohibitions against discrimination from saying, "no, I don't like you," or "no, I don't want you to have this job." What is prohibited is that you say out loud, up front, "I will not consider anybody of this group." You may reject anyone from that group on any other basis and there has been no major or even minor problem alleged with respect to individual employers on any of the other categories.

I would urge you to defeat this.

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 adoption of House Amendment "H" (H-161). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 53

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Carr, Clark, Clukey, Coffman, Cross, Dexter, Driscoll, Dutremble, L.; Farnum, Farren, Foss, Greenlaw, Heino, Hillock, Hussey, Jalbert, Joy, Kneeland, Kutasi, Lemont, Libby James, Lindahl, Look, Lord, MacBride, Marshall, Michael, Murphy, Nash, Nickerson, Norton, Plowman, Poulin, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Skoglund, Small, Spear, Strout, Tardy, Taylor, True, Tufts, Vigue, Whitcomb, Young, Zirnkilton.

NAY - Adams, Beam, Bowers, Brennan, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Dore, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hogle, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Lemke, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Rand, Richardson, Rowe, Ruhlin, Rydell, Saxl, Simonds, Stevens, A.; Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, The Speaker.

ABSENT - DiPietro, Donnelly, Gamache, Larrivee, Libby Jack, Lipman, Marsh, Pendleton, Pineau, Plourde, Pouliot, Ricker, Rotondi, Saint Onge, Thompson, Townsend, L.; Winn.

Yes, 62; No, 72; Absent, 17; Paired, 0; Excused, 0.

62 having voted in the affirmative and 72 in the negative with 17 absent, House Amendment "H" (H-161) was not adopted.

Representative Plowman of Hampden offered House Amendment "I" (H-162) and moved its adoption.

House Amendment "I" (H-162) was read by the Clerk.

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

Representative PLOWMAN: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call.

Again, I would like to address another amendment to this bill, something that I pointed out to you earlier during my remarks. It is not something that is not specifically precluded, it's provided for on a limited basis in our Maine Human Rights Act. The Maine Human Rights Act allows that if you have a one rental unit in addition to the owner/occupied unit that the provision to the Maine Human Rights Act does not apply, whether that be a duplex or an apartment upstairs. It also does not apply if you have a boarding home with four or less rooms.

This provision would apply to any owner/occupied residence. You would give the rights to the person who owns and occupies the building to be exempt from the Maine Human Rights Act under these conditions.

I would urge you to adopt House Amendment "I."

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 would simply state that this is unnecessary, it is already the law. I would ask that you vote against it.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "I" (H-162). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 54

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Campbell, Carr, Clark, Clukey, Coffman, Cross, Dexter, Driscoll, Dutremble, L.; Farnum, Farren, Foss, Greenlaw, Heino, Hillock, Hussey, Jalbert, Joy, Kneeland, Kutasi, Lemont, Libby James, Lindahl, Look, Lord, MacBride, Marshall, Michael, Murphy, Nash, Nickerson, Plowman, Quint, Reed, W.; Robichaud, Simoneau, Skoglund, Spear, Strout, Tardy, Taylor, True, Tufts, Vigue, Whitcomb, Young.

NAY - Adams, Beam, Bowers, Brennan, Bruno, Cameron, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Dore, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hogle, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Lemke, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Poulin, Rand, Reed, G.; Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Small, Stevens, A.; Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth, Zirnkilton, The Speaker.

ABSENT - DiPietro, Donnelly, Gamache, Larrivee, Libby Jack, Lipman, Marsh, Pendleton, Pineau, Plourde, Pouliot, Ricker, Saint Onge, Thompson, Townsend, L.; Winn.

Yes, 55; No, 80; Absent, 16; Paired, 0; Excused, 0.

LEGISLATIVE RECORD - HOUSE, APRIL 13, 1993

55 having voted in the affirmative and 80 in the negative with 16 absent, House Amendment "I" (H-162) was not adopted.

Subsequently, L.D. 246 was passed to be engrossed as amended by Committee Amendment "A" (S-57) in concurrence.

By unanimous consent, was ordered sent forthwith to engrossing.

(Off Record Remarks)

On motion of Representative O'Gara of Westbrook,
Adjourned at 5:50 p.m. until Thursday, April 15,
1993, at eleven-thirty in the morning.
