

MAINE STATE LEGISLATURE

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



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

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

VOLUME II

FIRST REGULAR SESSION

May 26, 1987 to June 30, 1987

Index

S.P. 484 L.D. 1461

Reported that the same be REFERRED to the Committee on ENERGY AND NATURAL RESOURCES. Which Report was READ and ACCEPTED. The Bill REFERRED to the Committee on ENERGY AND NATURAL RESOURCES. Sent down for concurrence.

Off Record Remarks

On motion by Senator BALDACCI of Penobscot, ADJOURNED until Wednesday, May 27, 1987, at 8:45 in the morning.

**ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
75th Legislative Day
Wednesday, May 27, 1987**

The House met according to adjournment and was called to order by the Speaker. Prayer by Reverend Russell Chase, North Vassalboro, Methodist, Retired. The Journal of Tuesday, May 26, 1987, was read and approved. Quorum call was held.

SENATE PAPERS

Refer to the Committee

on Energy and Natural Resources

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds for the Hazardous Materials Response Training Program at Southern Maine Vocational-Technical Institute" (S.P. 484) (L.D. 1461) reporting that it be referred to the Committee on Energy and Natural Resources.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Energy and Natural Resources.

Report was read and accepted and the bill referred to the Committee on Energy and Natural Resources in concurrence.

Ought to Pass in New Draft

Report of the Committee on Banking and Insurance on Bill "An Act to Continue Insurance Coverage for Mental Health, Alcohol and Substance Abuse Treatment Services for Maine Citizens" (S.P. 150) (L.D. 404) reporting "Ought to Pass" in New Draft (S.P. 561) (L.D. 1674)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Report of the Committee on Banking and Insurance on Bill "An Act Concerning Liability Insurance Coverage for Amusement Devices" (S.P. 374) (L.D. 1111) reporting "Ought to Pass" in New Draft (S.P. 560) (L.D. 1673)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Labor on Bill "An Act to Amend the Municipal Employees Labor Relations Law" (S.P. 132) (L.D. 337) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Municipal Public Employees Labor Relations Law" (S.P. 557) (L.D. 1667)

Signed:

Senators: DUTREMBLE of York
ANDREWS of Cumberland
Representatives: TAMMARO of Baileyville
McHENRY of Madawaska
RUHLIN of Brewer
RAND of Portland
JOSEPH of Waterville

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

Signed:
 Senator: COLLINS of Aroostook
 Representatives: ZIRNKILTON of Mount Desert
 WILLEY of Hampden
 BEGLEY of Waldoboro
 HALE of Sanford
 HEPBURN of Skowhegan

Came from the Senate with the Majority "Ought to Pass" in New Draft Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-95).

Reports were read.

Representative McHenry of Madawaska moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and specially assigned for Thursday, May 28, 1987.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative MICHAUD from the Committee on Energy and Natural Resources on Bill "An Act Relating to the Term of Air Emission Licenses" (H.P. 143) (L.D. 184) reporting "Ought to Pass" in New Draft (H.P. 1226) (L.D. 1675)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Representative RIDLEY from the Committee on Energy and Natural Resources on Bill "An Act to Establish Field Offices of the Maine Land Use Regulation Commission" (H.P. 604) (L.D. 822) reporting "Ought to Pass" in New Draft (H.P. 1227) (L.D. 1676)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft/New Title

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Require the Reporting of the Value of Political Advertising when Fairness Leads to the Giving of Equal Time" (H.P. 763) (L.D. 1026) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning the Reporting of Political Advertising Provided under the 'Fairness Doctrine'" (H.P. 1228) (L.D. 1677)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

CONSENT CALENDAR

First Day

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

(S.P. 84) (L.D. 170) Bill "An Act to Provide State Funding Necessary to Match Federal Funds for Home and Community Based Services for Older Citizens" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(S.P. 489) (L.D. 1471) RESOLVE, Authorizing the Director of Parks and Recreation to Convey by Deed the Interest of the State in Certain Parcels of Real Property Committee on Energy and Natural Resources reporting "Ought to Pass"

(S.P. 501) (L.D. 1518) Bill "An Act to Clarify the Law Regarding Prohibition of Employment Penalties or Interference Against State Military Force Members" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-85)

There being no objections, the above items were ordered to appear on the Consent Calendar of later in today's session 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:

(H.P. 1047) (L.D. 1410) Bill "An Act to Clarify the Taking of Property by the Department of Transportation"

(H.P. 1096) (L.D. 1487) Bill "An Act to Clarify Existing Federal Compensation and Care as the Primary Resource to an Injured Service Member before Seeking Benefits under the Workers' Compensation Act"

(H.P. 1024) (L.D. 1382) Bill "An Act to Require Financial Institutions to Furnish Copies of Real Estate Appraisals to Prospective Buyers upon Request" (C. "A" H-174)

(H.P. 1123) (L.D. 1526) Bill "An Act to Eliminate Reference to 'Standard Premium' in the Workers' Compensation Self-Insurance Laws" (C. "A" H-175)

(H.P. 1090) (L.D. 1481) Bill "An Act to Clarify Abrogation of Confidentiality of Communicable Disease Information for Child and Adult Protection Purposes"

(H.P. 1112) (L.D. 1506) RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

(H.P. 1045) (L.D. 1408) Bill "An Act to Extend the Period for Filing Birth Records"

(H.P. 1165) (L.D. 1591) Bill "An Act to Amend the Maine Emergency Medical Services Act of 1982"

(H.P. 1089) (L.D. 1480) Bill "An Act to Amend the Child and Family Services and Child Protection Act as it Relates to Judicial Reviews"

(H.P. 1088) (L.D. 1479) Bill "An Act to Authorize Evaluation of Vital Statistics"

(H.P. 427) (L.D. 572) RESOLUTION, Proposing an Amendment to the Constitution of Maine Requiring Residency of Candidates 3 Months Before Filing Deadline (C. "A" H-178)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Modify the State's Appeal Law to Permit Appeals of Adverse Intermediate Appellate Court Rulings by the State (S.P. 422) (L.D. 1302)

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. 103 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Make Additional Allocations from the Highway Fund for the Fiscal Year Ending June 30, 1987 (S.P. 482) (L.D. 1459)

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. 111 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989 (H.P. 373) (L.D. 494)

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. 111 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Establish an Exemption from the Waste Water Discharge Licensing Requirement for Certain Holders of Aquatic Pesticide Permits (H.P. 1066) (L.D. 1449)

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. 116 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.

ENACTOR
Emergency Measure
LATER TODAY ASSIGNED

An Act to Change the Perry-Pembroke Boundary Line (H.P. 1139) (L.D. 1549) (H. "A" H-160)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and later today assigned.

PASSED TO BE ENGROSSED
As Amended

RESOLVE, to Establish the Special Commission to Study School-entrance Age and Preschool Services (H.P. 1111) (L.D. 1505) (Emergency)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Bost of Orono, under suspension of the rules, the House reconsidered its action whereby L.D. 1505 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-181) to L.D. 1505 and moved its adoption.

House Amendment "B" (H-181) was read by the Clerk and adopted.

Subsequently, the Resolve was passed to be engrossed as amended by House Amendment "B" (H-181) in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

An Act Providing Additional Higher Education Opportunities for Maine Students (S.P. 143) (L.D. 397) (C. "A" S-76)

An Act to Coordinate the Review Process of the Department of Environmental Protection and Maine Land Use Regulation Commission (S.P. 339) (L.D. 994) (C. "A" S-72)

Was 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.

Passed to be Engrossed
As Amended

An Act to Simplify Fees for Certified Copies of Divorce Reports (S.P. 464) (L.D. 1421)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 1421 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-177) and moved its adoption.

House Amendment "A" (H-177) was read by the Clerk and adopted.

Subsequently, the bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

An Act to Limit the Administrative Charge on Sales of New Motor Vehicles to the Actual Administrative Cost (S.P. 541) (L.D. 1636)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair to anyone on the Business Legislation Committee.

This item is "An Act to Limit the Administrative Charge on Sales on New Motor Vehicles to the Actual Administrative Cost" -- that is the title. I was asked a question and I am not sure on that particular point. Maybe someone on the Business Legislation Committee can help me. It's quite common on certain models of cars that are in high demand for a dealer to tack on an additional dealer charge -- really a premium for that particular make and model of that car -- does this bill in any way affect that or is it still legal for the new car dealer to tack on a \$500 surcharge or whatever?

The SPEAKER: The Representative from Wilton, Representative Armstrong, has posed a question through the Chair to anyone on the Business Legislation Committee who may respond if they so desire.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: The bill does not prohibit any charge by the dealer. All the bill requests is that, if the dealer is going to put a dealer charge of say \$500 on, that it in fact be posted on the window of the car so that someone buying the car sees that charge up front before they sign the final sale agreement. Then they know it is part of the negotiations process when they are buying the car. There is absolutely no prohibition on charges. The consumer knows up front when they are first looking at the car what those charges are so, if they are going to bargain back and

forth with a particular dealer, they will be fully aware of all the charges that they are, in fact, bargaining on.

Subsequently, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Allow Farm Wineries to Pay Taxes Twice a Month (S.P. 542) (L.D. 1639)

An Act Relating to Qualifications for a Hotel Liquor License (S.P. 543) (L.D. 1645)

An Act to Amend the Maine Tort Claims Act (H.P. 682) (L.D. 923) (H. "A" H-158)

An Act to Require that Loads of Gravel, Sand, Crushed Stone, Wood Chips, Building Debris or Rubbish be Secure to Prevent Spillage (H.P. 799) (L.D. 1073)

An Act to Provide Special License Plates and Decals for People with Hearing Impairments (H.P. 1106) (L.D. 1498)

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.

ENACTOR

LATER TODAY ASSIGNED

An Act to Improve the Teacher and Administrator Certification Law (H.P. 1195) (L.D. 1629) (S. "A" S-78)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I move indefinite postponement of this bill and all its accompanying papers.

Enacting this legislation today will eliminate the third level of certification from law. It will halt any further piloting of the master teacher or professional level two concept. This will leave teachers, who participated in good faith, from the pilot programs and would leave the master teacher certification in limbo. It takes away from the State Board of Education any statutory vehicle to further study certification for teachers.

Passage of this law today removes our veteran teachers from the benefits of the certification process. New teachers entering the profession will benefit from our certification law, but this removes all opportunity for our veteran teachers who are seeking to improve their teaching ability. We would be eliminating the option to take an additional step in their career and may force our best teachers into administration or into another career which offers professional growth.

Remember, the State Board only wished to pilot the master teacher program for one additional year. Any final enactment of the third level of certification would, again, come before the legislature.

I request that when this vote is taken it be taken by the yeas and nays.

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

Representative DIAMOND: Mr. Speaker, I request that this matter be tabled until later in today's session.

Representative Small requested a division on the motion to table.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Bangor, Representative

Diamond, that this matter be tabled until later in today's session pending the motion of Representative Small of Bath that L. D. 1629 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

67 having voted in the affirmative and 62 in the negative, the motion did prevail.

PASSED TO BE ENACTED

An Act to Clarify the Definition and Application of Active State Service in the Defense Laws (H.P. 1202) (L.D. 1640)

An Act to Simplify the Method of Enforcing Health Benefit Liens (H.P. 1203) (L.D. 1641)

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.

PASSED TO BE ENACTED

An Act Concerning "Beano" or "Bingo" on Indian Reservations (H.P. 1204) (L.D. 1642)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Men and Women of the House: I would request a roll call on enactment.

The reason that I am asking you not to support enactment of this is because of the people in my area that have requested that this cap or special privilege not be given to any one segment within the State of Maine but should be extended to all of the organizations statewide.

It is of particular interest to my area because we are so close to the New Hampshire border, which has a higher cap on their Beano or Bingo games. As I said, I would like to have a roll call and I urge you to vote against enactment.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: After much work in committee and with all veterans organizations, charitable organizations, and almost anyone that runs Beano games, we came to an agreement that pleases everyone. Everybody has agreed that the Indian tribes have a right to earn a living. In a few words, I would like to give you the high spots of the bill.

First of all, they will be permitted to run 18 weekends during the course of a year, no more than two weekends per month. Five percent of the gross will be the fee going into the state's General Fund. They will be monitored by the State Police and audited by state or professional certified auditors. The bill also says they must employ Indians from the reservation and pay minimum wage for runners.

To help alleviate the problems that the small Beano's have, we have increased the winner-take-all game to \$500. That \$500, in no way, deals with the amount permitted under the games for that night.

I urge you to vote against the motion on this bill.

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 before you today in full support of L.D. 1642. I would like to briefly

explain the bill in more detail than Representative Perry did.

The bill does, indeed, enact a winner-take-all for the other Beano operations. It also increases the license fees for those operations.

I would like to tell you a little bit about why the Penobscot Nation requested this bill and why the committee worked so hard to come out with a Unanimous Report. As a federally recognized Indian Reservation, we do not have the customary sources of revenue to pay for our services, property taxation being the most significant. Under the terms of the Settlement Act, we are empowered to raise property taxes, but for all practical reasons, taxing the property on Indian Reservations is impractical as most of the land is held in common. That means it is held by every member of the tribe. We would in effect then be taxing ourselves. The houses and the land that are left would, for all practical reasons, not raise enough revenue to pay the salary of a taxpayer. We felt that by coming to the legislature to allow us to reinstate our high-stakes Beano games, we could contribute something, not only for ourselves, but for the state in general.

As it stands right now, and there are those that can support this statement, there are people leaving this state by the busloads to go to, not only New Hampshire, Connecticut, but the Maritimes, to play high-stakes Beano. Indeed, when the Penobscot Nation was running their own high-stakes Beano back in the early 80's, those same people stayed in the state, as well as busloads of out-of-staters coming in to our games.

The original bill was modeled on the federal legislation that was introduced in the 99th Congress. Both in the House and Senate legislation which would have allowed all Indian tribes across the United States to continue their high-stakes Beano -- federal legislation which was supported by all of our congressional delegation. When the Supreme Court in California vs. Cabazon decided in favor of Indian tribes nationwide, that legislation was no longer necessary.

The Supreme Court decision, which took place February 25th of this year said in part "The federal interest in Indian self-government, including the goal of tribal self-efficiency and economic development, are important. The tribal games provide the sole sources of revenues for the operation of the tribal governments." That is what we are asking for. We are not asking for a hand-out. We are not asking for anyone else's help. We are willing to do it alone, we are willing to work for what we need.

While the Penobscot Nation is a federally recognized Indian tribe, under the terms of the Maine Indian Land Claims Settlement, we also must abide by most Maine laws. Current statutes do not allow Indian tribes to operate Beano.

Bingo on the Penobscot Nation will be operated solely by the members of our tribe. We plan on installing computerized cash receipts, internal controls and accounting systems. Independent audits will be conducted by CPA's on a regular basis, as well as reports to the state, and be monitored by on-site inspectors.

I stood before you two years ago and debated this same bill for the same reasons -- essential services, fire and police, youth protection, recreation, senior citizen activities, adult and auxiliary youth education and other programs will be funded with Bingo revenues.

Due to the federal cutbacks in Indian programs, the federal dollars are shrinking. The revenues from our timber harvesting are shrinking due to world

conditions through no fault of our own. High-stakes Beano has and will continue to make a significant impact on the economic development of eastern Maine.

I would ask that you look at the editorial from the Bangor Daily News which was just distributed on your desks. It is a very favorable editorial, a complete turn-around from what it was two years ago. It recognizes the position that the Maine Indian tribes are in. We need the revenue from Bingo to help support our tribal governments. I know many of you are thinking -- yes the Penobscots are rich, or they should be, with their investment programs. That is far from the truth. Yes, we do have investments, but at this point in time, the rate of return is so low and most of the profits are being channeled into economic development. These are our long-range goals.

I don't need to remind many of you, who toured the reservation earlier this year, about our economic development projects. Our high-tech audiocassette factory that employs over 100 people, half of which are tribal members, our plans (the bids were awarded today) to enlarge this audiocassette factory, which will employ another 100 people. Many of these people that will be going to work, and are working for the cassette factory now, are displaced shoe workers, unemployed mill workers. We are doing our share in developing the economy, not only of eastern Maine, but the State of Maine as well.

I recognize the fact that there was quite a bit of opposition to the bill when it was first heard in front of the committee this previous February, the differences were worked out, the committee worked long and hard to come out with this compromise bill, a unanimous compromise bill.

The high-stakes Bingo will attract crowds into the state and they will bring their money into the state, rather than the reverse. Now the people are leaving the state, taking their money and spending it out of state.

I would ask for your vote in support of this legislation.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I would urge your support of this bill. I couldn't help but admire the members of the Penobscot Nation in committee, the willingness to compromise and even bend backwards to see that a good bill would come out of committee. They passed close scrutiny because I did ask very many pointed questions. The conditions we set in this bill -- I don't think anybody else would want those conditions. It is admirable what the Penobscot Nation has done.

Just a few days ago, we voted on a bill which told our views on what we think of what is being done to some minority races and we voted on the South Africa divestiture bill. I think this is one time to show to the Indian nations that we recognize them as full-fledged Americans. They are in a tough position as the Representative from the Penobscot Nation said. They are not as fortunate as the rest of us in the small towns and cities to be able to assess property taxation the way they do. We can go on the fair market value and that is how we get our property taxes. In their case, since the property is all held in trust, when it comes to fair market value, real estate has very little value because an Indian can only sell to another Indian. So, their basis for property taxation is practically nil.

I admire the Penobscot Nation Representative for the way she was willing to work with the committee and bend backwards to see that we have got a good

bill which will be very strictly controlled and accountable to everyone.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker and Members of the House: My reasons for supporting this bill are very selfish. Within 16 miles of my home in New Hampshire, there are several beano games with high stakes. Any time you go near the place, you find busses from Bangor and further up north. I say let's keep our money in Maine and not help New Hampshire coffers.

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 passage to be enacted.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, under the provisions of House Rule 19, I ask to be excused from voting on this matter.

The SPEAKER: The Chair will grant the request to the Representative from Brunswick, Representative Priest. He will be excused from voting under the rules.

The pending question is enactment of L.D. 1642. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 75

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Baker, Begley, Bickford, Bost, Bott, Brown, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Dore, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hillock, Hogle, Holloway, Holt, Hussey, Ingraham, Jackson, Jalbert, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Racine, Rand, Reed, Rice, Richard, Ridley, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Bragg, Foster, Hale, Macomber, Tamaro.

ABSENT - Boutillier, Duffy, Jacques, Joseph, McGowan, Nadeau, G. G.; Reeves, Ruhlman, Warren.

EXCUSED - Priest.

Yes, 134; No, 5; Absent, 9; Vacant, 2; Paired, 0; Excused, 1.

134 having voted in the affirmative and 5 in the negative with 9 being absent and 2 vacant and 1 excused, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Give Local Election Wardens Authority Concerning Gathering Petition Signatures (H.P. 1205) (L.D. 1643)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I feel compelled to discuss this bill before it is enacted. I am sort of disappointed with the end product that came out of the Legal Affairs Committee in reference to a problem that has been pointed out by numerous individuals and that is the fact that voters are being intimidated and coerced at the polls to sign petitions for a referendum drive. This has been pointed out by numerous staff writers. We have had letters to the editor and one of the basic complaints is that you have people out there that are being hired and paid to obtain signatures. They are being paid on the basis of the number of signatures that they are able to produce, so they are very aggressive.

There were two bills put in. One was a bill, L.D. 1145, which would have given the warden the authority to place those individuals within the voting area, so they could be controlled. It is my understanding that, based on the workshops of which I was present, that they felt that some of the wardens would be too restrictive and would place your signature seekers in the rear of the room where they would not have access to people that are coming in or out of the booth of the voting area.

I had put in a bill which would have prohibited the gathering of signatures by anyone within 250 feet of the entrance to either the voting place or the registrar's office. We have had some discussions on this and it was my understanding that a compromise between one extreme and the other would be coming out of committee.

Let me read to you what the current law is. This is an updated voting list, dated December 1985. It is a letter put out by James Henderson, the Deputy Secretary of State. It says, "The Attorney General's Office has ruled that people seeking voter signatures on petitions have a right to be at the polls as long as they do not attempt to influence voters or interfere with their entering or leaving the voting place. For most communities, this reflects current practice; however, some adopted local ordinances to restrict petitioning near the polls. The Attorney General's Office has concluded that these local regulations are contrary to the election law and must not be enforced."

Since Title 21A governs the conduct of elections, the key provision is that which states "Party workers and others may remain in the voting place outside the guardrail enclosure as long as they do not attempt to influence voters or interfere with their free passage." Petitioners are considered "others" and may be removed only if they attempt to influence voters or interfere with their free passage. This is a decision for the warden.

Nevertheless, as Secretary Quinn expressed in a letter to Clerks in 1981, the voters' interests comes first at the polls. "Wardens are obligated and sworn to protect the freedom of voters and to ensure that unhindered and efficient voting process is guaranteed. Petitioners have no special status just because they are petitioners. To ensure that they do not interfere with voters, we recommend that they not overly solicit signatures from voters but rather be allowed to establish themselves in a

reasonable place with a sign requesting that voters sign their petitions. Specific arrangements should be worked out with the warden."

Now, the so-called compromise specifies that the warden may select and designate a specific location at the voting place accessible and observable by the voters, where the collection of signatures may take place. The warden may limit the number of persons collecting signatures to one for each specific question, candidate, or issue. Persons collecting signatures may not solicit a voter signature until the voter has completed voting.

The warden may direct the removal under Subsection 2, Paragraph A, of any person collecting signatures which do not comply with the requirement of this Subsection. Now, this is a compromise.

If you were paying attention, and I hope you were, of the letter that came out from the Secretary of State's Office, the warden does have the authority to remove anyone that is not in compliance with the law.

The committee amendment specifies that a voter entering the voting place will not be approached. However, he may be approached when he leaves the voting place. That is all that this amendment does.

I am not suggesting that you vote against this amendment but I just want to express my opinion that I am very disappointed with the lack of establishing procedures to protect the voters when they go to the voting place. I realize that at the committee hearing, we were told that if we adopted my L.D. prohibiting seeking of signatures within 250 feet, this would prohibit the volunteer fire department from having a bake sale, it would preclude the girl scouts from being there, it would also preclude local referendums where they obtain their signatures but it may exclude those individuals. I feel that when we go there to vote that we should go there for one purpose and that is to vote for candidates and not to be harassed and coerced by individuals that are getting paid to obtain signatures and the more signatures they obtain, naturally, the more money they will get.

What really triggered this thing off was the fact that at the last election we had individuals that had been hired by a marketing firm to obtain signatures to eliminate the hospital cost containment committee. I observed some of those workers calling people over and saying, "Do you want the state to tell you how much you are going to pay for hospitalization?" Naturally, the answer was no, where do I sign, and they didn't have the slightest idea what the petition was for. I feel that we could have done more and I don't think that what we are doing today is doing anything. I just wanted to express my opinion.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: You have just relived what was a very lengthy hearing process on this bill and similar bills like it. Let me just say a few words. There is a need in this area to balance out what must be an orderly and protective voting process with the First Amendment rights of persons to talk to voters and to gather signatures. It is true that, in some cases, signature gatherers are paid and others are not and are simply volunteers. It is also true that there is a wide variety of activities that goes on in many Maine towns, especially small towns, at the time voting takes place and this activity takes place quite often in or near the voting place.

We have come to what we think is a good compromise which preserves local control where it should be and that is in the hands of the warden.

Let me go through, very briefly, the three items that this bill does. One, the warden selects a specific place for signature gatherers to be. It must be accessible but the warden controls that place.

Two, it limits the gathering of signatures to one person per referendum so you don't have three or four people ganging up on voters. There is merely one person to gather signatures.

And finally, only voters who have voted can be approached, not those who are forced to wait in line to complete the voting. We think this takes care of many of the concerns that voters had and the complaints we had. It preserves the authority of the warden, it doesn't overreach and it doesn't get us into First Amendment problems, which we thought Representative Racine's bill and others like it might.

I think it is a good compromise, I think it preserves local control and I urge you to support it.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: We, the sponsors of this bill, believe that it really is a very good compromise. We don't, in any way, want to impede people's right to collect signatures and to petition this legislature. As you know, there are hundreds and hundreds of different voting places in Maine. Each one of them is physically different. In order for decisions to be made about how the most efficient way is for people to vote and still preserve the right for people to collect signatures, we feel the decision needs to be made at the local level by the local election warden.

This was a unanimous committee report. I hope you support the bill.

Mr. Speaker, I request a roll call.

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: My main objection to this is that not all voting places have room enough to do what is asked for in this bill. Ours, for instance in Hampden, the voting place is the lobby of the high school. We tried several years ago -- and there were five petitioners there -- to find some place in that restricted area where these people could get signatures.

I am getting more resentful of the gathering of signatures at the voting place because, every single time that it happens, voters remind me that they are supposed to be there to vote and not to be harassed by petitioners. It is becoming a big business where some people, for instance, work on getting petitions all year long and that is the only thing they do. It is becoming very big business and more harassing all the time.

I think that some of the voting places simply don't have the space to put these people. You have got five or six petitioners out there in a very restricted area and they have to be there according to this law. I just don't know where you are going to keep them. Are you going to kick the voters out or are you going to kick the petitioners out? For that reason, I ask that this bill and all its accompanying papers be indefinitely postponed and I request a roll call.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I, too, was in the Legal Affairs Committee hearing when the good Representative from Biddeford came and gave us his speech. He talked and talked and I did listen very closely, which is something I don't have a habit of doing at times, but when he got through, I changed my vote because there has to be something done.

I served as a warden in my hometown and I remember one election I went to vote, before I got through, I had signed up for two magazines and I bought a cake from a ladies group and I had signed two or three different petitions.

This thing has been worked out, the warden has a lot of power, he is the lord and master of the polls. This gives more teeth into the law that the warden is the one that will call the shots.

There was a proposal made that they had to be 200 feet away from the polls to collect signatures and I could see what it would look like -- some poor group out in the rain somewhere or on the front lawn of the high school collecting signatures. This is a good bill, this gives complete power to the warden, where the power belongs. I will put my faith in the warden to decide what to do to see that everybody is treated fairly.

I would suggest that you vote no on the indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: This is a bill that I was delighted to be a cosponsor of, since I had quite a bit of input from voters in my district who were bothered by being asked to sign a petition particularly on their way to voting. The part about the bill that I think will please the folks that have been contacting me is the part that says, "Persons collecting signatures may not solicit a voter's signature until the voter has completed voting." I definitely do support this. This bill attempts to give the election warden more authority in keeping petition name gathering orderly without taking away the right to collect the names.

I urge you to vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: The committee gave this bill a lot of thought and we had a lot of concerns because we, too, were concerned with the people trying to gather signatures on petitions. First of all, we thought the people of this state have a right to petition their government. This is one of the rights under our Constitution and we felt as though we had to preserve that right and also preserve the right of the voters going in there to have a chance to vote and not be harassed until they come out.

In my town where we vote, we have maybe more room than some people do, we have always had a certain place for them and we have never had a problem. I don't believe that any of our voters would ever say that they have ever been harassed. They could leave, they can walk by them, or they could stop and talk.

I think this bill assures us that only one person can be there at a time to collect these signatures and that it assures the people of the State of Maine the right to petition their government and it assures the voters the right of access in leaving the voting booth. I urge you to vote against indefinite postponement of this L.D.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, I would like to pose a question if I may?

I, too, am concerned about the size of our voting place and I am wondering -- does our warden have to give the petitioners a place or can you say you can go outside and do this or must it be inside at the voting place?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: The bill says the warden may select and designate a specific location at the voting place accessible and observable by the voters where the collection of signatures may take place. Obviously, the wardens first concern is to protect the voting process and to make sure that the people can get to the voting booth and get back from the voting booths, unimpeded. Once that is done, then he may if he wishes, designate a spot. If he wants to let things be the way they are, it is up to him. We place our faith, frankly, in local control of the warden. We think that is the way it ought to be rather than trying to legislate for all the various possibilities from Augusta. We want the warden, who is at the voting place, to determine where these people should be. Obviously, the main concern the warden must have is for the voting process. Once that is done and if he wants to, he may designate a spot for the petitioners.

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: The problem was so great in our town that, a few years ago, we did enact a local ordinance to prevent the gathering of signatures at the voting place. The primary reason that we did it was simply because there was no area to put the people. We were promptly informed by the Secretary of State that we couldn't do that, they had to be admitted. It does say, in the present law, as I understand it, that the warden (I have been a warden on numerous occasions) has the prerogative now of allowing them in or allowing them out and, if they congest traffic and that sort of thing, then they can't be allowed there. That is the premise that we have gone with.

Apparently with this bill, they would have to be allowed whether it was one, six, ten or whatever. As you know, over the years, the number of petitioners at the voting place has increased. It seems to me with every election it is becoming a more common practice, perhaps because it is becoming a big business. I agree that the people should have a way to petition state government and I believe they do. I think there are all sorts of ways to get signatures on a petition and they are done at shopping areas and this sort of thing without impeding the elective process. It seems to me that we discourage people from going to vote by allowing this sort of thing. Some of these people are extremely high pressure, they are high pressure salesmen, believe me, whether it is before you vote or after you vote. People are being pressured to sign a signature and, often times, it is misrepresented. I don't think it should be allowed at the voting place. I have no idea how we can allow it at our voting place because it simply isn't large enough to accommodate all these people.

I

suppose if it would only accommodate two or three and we would ask the others to leave, we would be in deep trouble. I simply don't know how some of the voting areas in the state are going to accomplish this. I ask you to support the motion.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: The objection of the people who have stood to oppose this bill seems to be that the bill doesn't go far enough. I think that Representative Priest has pointed out very ably that we do have to strike a balance here, people do have a right to petition. This bill does not expand that right. This bill does not expand accessibility at the polling place but rather contracts it. We are not opening it up for more petitions but rather we are giving the warden more authority to regulate the people who are there trying to gather signatures.

Currently, in the largest polling place in my district, in the last election, we had one table that was gathering signatures for the hospital cost containment petition and when I voted, there were six or seven people working that table. This bill would restrict that to one person rather than six or seven. Currently, if you only have two tables in there collecting signatures but you get 15 people working the two tables, it can get very crowded. This bill does not expand that ability for people to come in and gather signatures but rather contracts it but still protects the rights of people who want to gather petitions.

I would urge you to oppose the motion to indefinitely postpone this bill so that we can pass it.

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 Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, I would like to pose a question.

Under this law as it is now or even in the past, is it that the warden can say that there is no room inside the building for petitioners, so you will have to go outside in the yard -- is he able to do that now?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I would question whether, in fact, such a voting place actually exists where there is no room for list checkers for political parties, which are routine, and for the normal paraphernalia. You don't have to guarantee a table for these people but it seems to me that you need space about two feet by two feet for them to stand. Right now, as Representative Cashman said, you have a number of people that can come in as long as they don't interfere with the voting process, you have to let them in there. Obviously, the voting process comes first but if the voting process is not interfered with, then now, you have to let as many people as you can get in in there. What this bill is doing is restricting that so you only have one

person for each referendum. It seems to me that any voting place in the state ought to be able to find room for one person to stand up to talk to voters after they have voted, not before, but after. That sounds like a very serious concern but I don't think it is as much of a concern as it might be.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I don't think the question has been answered quite clear enough for me. I like yes or no answers but you don't often get it especially from a lawyer. My question is -- can a warden say to the collector of signatures, you must go outside? That is the only question I have at this point.

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: I am not sure I can ever give an answer which is going to be totally satisfactory to the Representative from Island Falls.

Obviously, if the voting process is being interfered with, that is primary, and the warden protects that first. If there was absolutely no other way to protect the voting process but to tell somebody to go outside, then you tell them to go outside. I can't visualize that ever actually taking place.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I can attest, being an ardent petitioner for the citizens right to petition for referendum, there have been occasions when people have been told to sit outside to get these signatures because of lack of room in the voting place. There are some little places apparently in Maine that are not big enough for people to collect signatures for referendum. I know this has happened. Perhaps under this bill now, if it passes, it will not happen in the future because, in Maine, a petitioner can get mighty wet and cold at times.

The SPEAKER: The pending question before the House is the motion of Representative Willey of Hampden that L.D. 1643 and all its accompanying papers be indefinitely postponed. Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 76

YEA - Bickford, Callahan, Dexter, Ingraham, Lebowitz, Mills, Parent, Salsbury, Scarpino, Willey.

NAY - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Baker, Begley, Bost, Bott, Bragg, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Davis, Dellert, Diamond, Dore, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hillock, Hognlund, Holloway, Holt, Hussey, Jackson, Jalbert, Joseph, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McHenry, McPherson, McSweeney, Melendy, Michaud, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Perry, Pines, Pouliot, Priest, Racine,

Rand, Reed, Rice, Richard, Ridley, Rolde, Rotondi, Rydell, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tamaro, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Zirkilton, The Speaker.

ABSENT - Boutilier, Duffy, Jacques, McGowan, Nadeau, G. G.; Reeves, Ruhlin.

Yes, 10; No, 132; Absent, 7; Vacant, 2; Paired, 0; Excused, 0.

10 having voted in the affirmative and 132 in the negative with 7 being absent and 2 vacant, the motion to indefinitely postpone did not prevail.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR
LATER TODAY ASSIGNED

An Act to Enhance the Activities of the Maine Highway Safety Committee (H.P. 511) (L.D. 684) (C. "A" H-126)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and later today assigned.

PASSED TO BE ENACTED

An Act to Exempt Liquid Asphalt from the Ground Water Oil Clean-up Fee (H.P. 1173) (L.D. 1599)

Was 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
TABLED AND TODAY ASSIGNED

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

An Act to Require Candidates Requesting Ballot Inspection to Pay for this Service (H.P. 792) (L.D. 1064) (C. "A" H-147)

TABLED - May 26, 1987 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Priest of Brunswick, under suspension of the rules, the House reconsidered its action whereby L.D. 1064 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-147) was adopted.

The same Representative offered House Amendment "A" (H-179) to Committee Amendment "A" (H-147) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

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

Bill "An Act to Modify the Electric Fuel Clause" (H.P. 1225) (L.D. 1672)

TABLED - May 26, 1987 by Representative VOSE of Eastport.

PENDING - Passage to be Engrossed.

Representative Vose of Eastport offered House Amendment "A" (H-182) and moved its adoption.

House Amendment "A" was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

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

Bill "An Act to Provide an Accident and Sickness or Health Insurance Program to Retired Teachers" (S.P. 522) (L.D. 1637) (S. "A" S-77)

TABLED - May 26, 1987 by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

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

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

RESOLVE, Creating a Watershed District Commission (S.P. 261) (L.D. 742) (C. "A" S-65)

TABLED - May 26, 1987 by Representative DIAMOND of Bangor.

PENDING - Final Passage.

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 742 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-65) was adopted.

The same Representative offered House Amendment "A" (H-180) to Committee Amendment "A" (S-65) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The SPEAKER: By unanimous consent, unless previous notice is given to the Clerk of the House or the Speaker of the House by some member of his or her intention, the Clerk is authorized today to send to the Senate, 30 minutes after the House recesses, all matters passed to be engrossed in concurrence and all matters that require Senate concurrence. After such matters have been sent to the Senate by the Clerk, no motion to reconsider will be allowed.

(Off Record Remarks)

On motion of Representative Perry of Mexico, Recessed until 4:45 p.m. in the afternoon.

(After Recess - 4:45 p.m.)

The House was called to order by the Speaker.

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

Committee of Conference Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Concerning Proof of Insurance on School Buses" (H.P. 863) (L.D. 1164) have had the same under consideration and ask leave to report: that the Senate Recede from acceptance of the Majority Ought Not to Pass Report and Concur with the acceptance of the Minority Ought to Pass as Amended by Committee Amendment "A" (H-130) Report and Pass the Bill to be Engrossed as Amended by Committee Amendment "A" (H-130) in concurrence.

(Signed) Senator DOW of Kennebec, Senator THERIAULT of Aroostook, and Senator CAHILL of Sagadahoc - of the Senate.

Representative CLARK of Millinocket, Representative MOHOLLAND of Princeton, and Representative STROUT of Corinth - of the House.

Came from the Senate with the Committee of Conference Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-130) in concurrence.

The Committee of Conference Report was read.

On motion of Representative Clark of Millinocket, the Committee of Conference Report was accepted in concurrence.

SENATE PAPERS

The following Communication:

The Senate of Maine

Augusta

May 27, 1987

The Honorable John L. Martin
Speaker of the House
113th 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 Banking and Insurance, the Governor's nomination of Joseph A. Edwards of Belmont, Massachusetts for appointment as the Superintendent of the Bureau of Insurance, Department of Professional and Financial Regulation.

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

Was read and ordered placed on file.

Unanimous Leave to Withdraw

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act Relating to Alcohol-related Birth Defects" (S.P. 411) (L.D. 1262)

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

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Include the Term 'Sexual Orientation' in the Maine Human Rights Act" (S.P. 221) (L.D. 602)

Signed:
Senator: BLACK of Cumberland
Representatives: VOSE of Eastport
COTE of Auburn

MacBRIDE of Presque Isle
BEGLEY of Waldoboro
HANLEY of Paris
MARSANO of Belfast

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

Senators: BRANNIGAN of Cumberland
GAUVREAU of Androscoggin

Representatives: PARADIS of Augusta
WARREN of Scarborough
CONLEY of Portland
THISTLE of Dover-Foxcroft

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

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

Representative PARADIS: Mr. Speaker, Members of the House: I move that the House accept the Minority "Ought to Pass" Report.

Today I wish to address myself to those individuals in this chamber who have voted against this bill in the past because they find homosexuality repugnant or contrary to the teachings of their faith. I want to appeal to you to change your vote this year. Now it isn't often in this chamber that a member changes his or her position on an issue as basic or as well publicized as the Gay Rights Bill. Part of the reason that we don't change is because our principles are fixed and this type of rigidity can be praiseworthy. I am not asking any member in this chamber to change his or her morality this afternoon.

Sometimes new evidence or new ideas, brought about by what we might call the legislative process of give and take, the testimony that we receive at hearings, the discussion and the debate that we have informally among ourselves, causes us to change our mind and to apply our principles in different ways. Changing one's mind in this case, in case of reflection and reconsideration, can be praiseworthy and can be courageous. It is not an act of weakness to reassess one's position on this bill or any other major bill of importance that comes before this legislature.

On this particular issue, members of the House, I changed my mind two years ago. As a member of the 109th, 110th and 111th Legislature, I voted, not as a member of the Judiciary Committee but just as a member of this body, against the Gay Rights Bill as presented to us then. Two years ago, as you know, I got up before this very group and urged adoption of the Minority "Ought to Pass" Report as I am so doing tonight. Why? Why change one's position? Is it because I changed my position about the morality of homosexuality? I can tell you honestly and forthrightly that I haven't. My church teaches, in clear and unequivocal language, that homosexuality is wrong. I believe in this teaching today as strongly as I ever have. But my church teaches something more and it is reflection on this something more that leads me to change my vote. My church teaches that every homosexual is a child of God and deserves to be treated with respect and love. My church condemns, in the strongest possible language, the kind of discrimination against homosexuals that is sadly, a daily commonplace situation, in Maine.

If I may quote from a letter sent out from the Vatican just a few months ago -- "It is deplorable that homosexual persons have been and are the object of violent malice, in speech or of action, and such treatment deserves condemnation wherever it occurs. It reveals a kind of disregard for others, which endangers the most fundamental principles of a

healthy society. The intrinsic dignity of each person must always be respected in word, action, and in law."

The dignity of homosexual persons is not being respected today in our state -- sadly, I must say that. Today we can do something about it. It is not just the concern of the Catholic Church, a similar concern was expressed beautifully in front of our Judiciary Committee during the hearing on this Gay Rights Bill. It was expressed by none other than Mr. Jasper Wyman, the Director of the Maine Christian Civic League. Mr. Wyman said, "We wish to affirm our steadfast belief that homosexual's are persons created by God and loved by God with the same depth of mercy and compassion as any other human being. To personally malign, ridicule, or assault the personhood of any homosexual is no less an offense against God than the practice of homosexuality itself. We strongly condemn such persecution as morally wrong."

Yes, it is wrong. I think it is wrong and I think many of you, in your hearts, know that it is wrong for a landlord to refuse housing because a person happens to be a homosexual. It is wrong for an employer to refuse work because they find out that that person is a homosexual. It is wrong for a group to harass or persecute a person because that person happens to be gay. Yet it happens right here in Maine all the time. The members of the Judiciary Committee heard hours of testimony to this effect a few weeks ago. Such discrimination is more than personally objectionable, it undermines the very fabric of our freedoms in our state. In the words of the Vatican letter, "It endangers the most fundamental principles of a healthy society."

We know from our own recent history in this country that blacks faced discrimination and we outlawed it. We know that Franco-Americans, my own ethnic group, Italian-Americans and others, faced discrimination and we outlawed it. Women have faced this unjust treatment and we have outlawed that. In doing so, we did not give new or special rights to blacks or other minorities, we merely restated and reaffirmed the rights already implicit in our Constitution, for every person to be a free citizen of our state.

Members of the House, I was thinking before this debate this afternoon and I thought back to the First Amendment of the Constitution and permit me to quote -- "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech, of the press, or the right of the people to peaceably assemble and petition the government for redress of grievances." Nowhere in the Constitution of the United States does it say that we approve of every religion, that all the people approve of every religion or every assembly of people for whatever cause they wish to assemble for. It just says that the right of the people to do so shall not be abridged or denied.

If we outlaw discrimination against homosexual people, we are not saying that we approve of homosexuality, we just say that the right of these people to have a job, housing or to be able to go to theaters and have dinner and enjoy all those other freedoms that we have, ought not to be abridged or denied. They ought to be able to enjoy the same rights and privileges that all of us take for granted.

Before I sit down this afternoon, I would just like to acknowledge a voice that isn't here today, a voice that had spoken out on this issue many, many times and he always did so with a certain compassion and eloquence that I could never equal. He always

did it from the heart as he spoke about all of his causes and I would just like to quote Larry Connolly for a minute because I recall very well, having read his speeches a few moments ago, how strongly he felt about this bill. He said something very simple two years ago but, as usual, he went very straight to the matter. Larry Connolly said, "Homosexuals are the same kind of folks as you or I. They smile and they cry, they feel, they hurt and they have the same needs for love and personal dignity as the rest of us. That is what the issue in this legislation is all about."

We don't have to have Larry Connolly here in this chamber to remind us that the work of lawmakers is never done, that people can be discriminated against or maligned because of the views they hold or the personal lifestyle they may choose to profess. Our job, members of the House, is to see that those taxpayers, those members of our society, have a right to live to the full extent of our constitutional rights like anyone else without having artificial barriers put in their place, without having someone in power deny them what the Constitution of the United States is so clear in, in its protection of those rights.

I ask you, in closing, not to vote out of fear or (I don't know what the perfect word is) out of lack of fully appreciating the cause for which these people have brought this bill before us. It isn't easy for them, year in and year out, to come before the same committee to present the same issues of discrimination and the same hate that is put upon them and to ask for redress of grievances. I fully respect them for having done so. I fully respect them for wanting to come before a public body and to make their case known to the people of this state. I hope that we, in this chamber, afford them the same respect and give them the same amount of tolerance that they give to us.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed and I request a roll call.

This issue which we are debating today is a most emotional one as you all know, in addition to being most controversial. It is a very difficult issue for me to be debating today, because I have much compassion for homosexuals.

In this 200th Anniversary year of the Constitution of the United States of America, which our forefathers so wisely drafted, the freedoms of all people have been carefully guaranteed, as you have heard the Representative from Augusta read to you. The freedoms of speech and press, the right to peaceably assemble, the right of the people to be secure in their homes, their persons and papers, their right to citizenship.

"No state shall deprive any person of life, liberty or property without due process of law nor deny to any person within its jurisdiction the equal protection of the laws." Those are among the freedoms on which the United States was built and the freedoms which are upheld by law for each and every one of us. I am sure too, the vast majority of us, are proud of these freedoms that are ours that pertain to us all who live in America.

In addition, in Maine, we have the Human Rights Act to protect the public health, safety, and welfare of Maine people and to prevent discrimination against our citizens in employment, housing, or access to public accommodation regardless of race, color, sex,

handicapped, religion, or national origin. All of these categories are general categories. They do not pertain to any age group, only age; nor to any particular race, only race in general; nor to any particular religion, only religion in general. Furthermore, I am sure the vast majority of the people of our state wholeheartedly agree with these various categories listed in the Human Rights Act for they pertain to us all.

This bill which we have before us today would add the term "Sexual Orientation," as you have heard to the list of categories in the Human Rights Act. Sexual Orientation is defined as "having a preference for homosexuality, heterosexuality, or bisexuality" but here there is a difference with this proposal. I feel very sure the majority of the people of the State of Maine do not endorse or condone homosexuality as a lifestyle. It is strongly opposed by many people for moral, religious, historical reasons. Consequently, while there is general acceptance of the other terms of the Human Rights Act, this one, sexual orientation, would be most controversial.

There has been much discussion in this House about the message we send to the people back home. Whether we like it or not, when we pass a bill in this legislature, we put our stamp of approval on that piece of legislation. You may not have supported it, and I may not have supported it, but the legislature's stamp of approval is on that legislation that we have voted into law. I do not think the majority of the people of this state want that stamp of approval on homosexuality as a lifestyle. I know, in my district, the majority of the people do not.

All people deserve and must have the freedoms our constitution guarantees and our Human Rights Act further defends. That is imperative in this great country of ours, but we should not compromise our heritage by passing a bill supporting a lifestyle that is strongly opposed by so many people.

Ladies and Gentlemen, I hope you will vote to indefinitely postpone this bill.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: First of all, just a response to the comment by the previous speaker, having to do with the Human Rights Act, I would remind her and all of you that the Maine Human Rights Commission, feeling so strongly that these rights are denied, is one of the supporters of this legislation. Certainly, it seems to me that, if those rights were protected in the Human Rights Act, the Human Rights Commission would not be a sponsor of this bill.

Mr. Speaker, Ladies and Gentlemen of the House, among the several states that already have similar legislation in place, one of those states is the State of Wisconsin. When Governor Dreyfuss of Wisconsin signed legislation prohibiting discrimination based on sexual orientation, he made a statement and I would just like to briefly read that. This is a statement to the legislature: "I have decided to sign this bill for one basic reason -- to protect one's right to privacy. As one who believes in the fundamental republican principle that government should have a very restricted involvement in people's private and personal lives, I feel strongly about governmentally sanctioned inquiry into an individual's thoughts, beliefs, and feelings. Discrimination on sexual preference, if allowed, clearly must allow inquiries into one's private life that go beyond reasonable inquiry, and in fact,

invade one's privacy. No one ought to have that right and no one ought to be placed in a position of having to reveal such personal information, when it is not directly related to an overriding public purpose."

Now, that bill was passed by both Houses of the Wisconsin Legislature and, in the several years that have passed since it became law, none of the dire prophecies of the opponents have come to pass. Instead, Wisconsin's strong commitment to equal rights and opportunities for all its citizens has been strengthened, according to Representative David Clarenback, who was the sponsor of the legislation. In fact, there is now in place a Governor's Council on lesbian and gay issues that serves as a liaison between the Governor's Office and the gay community.

I want you to know this afternoon that I am not a cosponsor of a bill, which is asking you or the people of Maine to take a stand for or against homosexuality, nor am I a cosponsor of a bill which speaks to any religious or moral issue, because this is not a religious issue and it is not our right or responsibility to make moral judgments about the private lives of private people.

There is a God in our heaven whose will, will be done in due time, and it will be done as He sees fit, not as we mere mortals think it should be. We are legislators, and as such, we are lawmakers. We are not God, either collectively or individually, and we have no right to make judgments that only God can make.

The only question before you today is this one, why should any person, why should any person, be denied any of the civil rights included in this bill simply because he or she is a homosexual and we don't think he or she ought to be? That is the only question. The right of private sexual preference among adults should be considered inherent and they should be guaranteed the basic human right to live without harassment or discrimination.

It is, in fact, as the Catholic Archbishop of Milwaukee said in supporting the Wisconsin bill that, "It has always been consistent with Catholic teaching that homosexuals should not be deprived of their basic human rights." I stress that he was speaking only of basic human rights. In that statement, as in the statements of nearly all the religious groups in America, many, many of which were at the public hearing, references only to the civil rights, the basic human rights of people, it was not a religious statement. It was not a statement of approval of homosexuality nor is the bill before you asking you for a statement of approval of homosexuality.

Neither my fellow legislators are we, the sponsors, are asking you to take that type of a position. We only ask you to address yourself to the one question -- why should any person be denied any of the civil rights, the basic rights in this bill, because he or she is a homosexual? There is no legal, social, or moral justification, for denying homosexuals access to the basic requirements of human, social existence. Society does have a legitimate role in regulating some sexual conduct, since criminal law probably serves to preserve public order and decency, and thus, any such criminal actions whether by homosexuals or heterosexuals, are and should be, prohibited.

But sexual activities carried out in private between private individuals, whether they be heterosexuals or homosexuals, are matters of private morality, and not subject to any earthly law, and certainly not subject to how an individual feels about homosexuality, especially if that individual

happens to be a lawmaker (especially if he happens to be a lawmaker) sworn to protect the rights of all citizens.

Please, as you listen to what is said today, keep that one basic question in mind, and please, as opponents offer their reasons today, keep reminding yourself that this is not a religious matter, but a civil matter, and as lawmakers, you must set aside the arguments based on religion and consider, not whether homosexuality is admirable in God's eye, but whether discrimination is tolerable in God's eye.

You and I have, on many occasions in the past and will again in the future, I'm sure, vote for or against a particular bill without necessarily taking a position for or against a much larger issue. I think this sort of relates, again, to the previous speaker's comment about our stamp on any bill.

For example, our votes last year for the Big "A" Dam were not necessarily votes against recreation, or rafting, or access to whitewater, nor were the votes against the Big "A" against the larger issue of creating new sources of energy. There are similar examples occurring every week.

Therefore, I repeat, this is not a bill that calls for a vote which will give a stamp of approval of homosexuality any more than a vote for sex education in schools is a vote for promiscuity. It is rather a statement that, discrimination toward others, will no longer be tolerated.

In closing, let me say to each of you, especially those who do not know me very well as yet, I have never been more sincere about any issue than I am on this one nor have I felt stronger about an issue than I do this one. I am a sponsor of this bill because I truly believe that morality is not now, and never can be, justification for denying anyone basic human rights.

On the day of the public hearing, I would just like to share with you one of the "Thoughts for the Day" that I happened to read that particular day. "The worst sin toward our fellow creatures is not to hate them, but to be indifferent toward them, that is the essence of inhumanity."

I ask you to vote against the motion to indefinitely postpone and to support the Minority Report.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: There is nothing immoral about being homosexual any more than it is immoral to be blue-eyed. Contrary to popular belief, one does not choose to be homosexual.

This bill is clearly a matter of simple justice and equal rights, but it has been clouded year after year, after year, by fear, and obscene interest in human sexuality and prejudice -- those three monsters that hurt human beings in their spirits and their souls.

I wish we could do what is right with this bill today, not what is easy. But I fear I am going to have to go home this evening and tell my gay friends, and my gay son, that we did not.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: It has been argued here on this House floor that this is a very controversial measure and that, while the majority of the Maine people support the list of people already protected under the Human Rights Act, that this particular group is unpopular, therefore, we should not have to include them. Unpopular groups are the one's that need the protection of the Human Rights Act the most. It has

been argued that, if we are to pass this bill, we will be putting a stamp of approval on homosexuality. That argument is nonsense. It is nonsense because there are many unpopular political views that many people in this chamber abhor, yet those unpopular political views are protected under the First Amendment of our Constitution. Many of you would not give your stamp of approval to those political points of view. In fact, the majority of you wouldn't give your stamp of approval to my political point of view but it is protected under the Constitution.

Stamp of approval has nothing to do with this. It has also been argued that homosexuals do not fall into the category of a minority, the way we have come to traditionally view minorities. What I argue is that homosexuals have become a defacto minority by the fact that they are treated in such a discriminatory manner.

At the hearing which I attended, I heard a number of issues brought forth that clearly showed that discrimination against people because of their sexual orientation exists in this state. A brochure published by a resort specifically stated that they will not let two people of the same sex rent a room that had only one bed. If that could not convince anyone that discrimination does not exist, one had only to look into the faces of the opponents of that bill, you could see the word "hatred" written across their faces. They were literally chomping at the bit to get up and testify against the bill. When they testified, you would have heard some of the most obscene comments that have ever been delivered before a committee.

I have to ask myself this question and I think we all have to ask ourselves this question -- why do we fear this issue so much? Why are we so afraid to cast a vote in favor of this bill? I have done quite a bit of thinking about it. Sometimes I compare the attitudes we have today towards homosexuals, towards the attitudes that were held in this colony when we were part of Massachusetts in the late 17th Century when we conducted what was known as the Salem witch trials in which numerous people pointed fingers and accused people of being a witch. Think about the experiences that you may have had as a child of being ostracized at school with various terms. It is pretty much the same thing. Are we afraid, for example, if we pass this bill that perhaps homosexuality will rub off on us? It will not. Are we afraid because we may have a teacher who may happen to be a homosexual that it will rub off on his or her students? It will not. Are we afraid that if we cast a vote in favor of this bill that we may not return here in two years? Most incumbents return. They return because, I believe, that people vote for you, not because of how you will vote on one particular issue. They will return you to reelection because they trust you because you have made the rounds and have shown concern and that you are honest. I believe that the voters of this state respect the honesty of someone who votes their conscience even if they disagree with the vote that you cast.

I have been told many times in the halls of this chamber that it is useless sometimes to debate an issue, that people's minds are made up and why bother? I don't believe that. I believe, if you believe in an issue strongly enough, that you should make every attempt to win your fellow legislators over to your position. I am very seriously debating here today to try to win you over to this position. I hope that you will vote today to pass this legislation. Let us show this state that we are not

afraid to make an unpopular decision because we believe that it is the right decision.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: In response to Representative Paradis, I do hope that all of us assembled here would treat all people with dignity and respect.

In response to Representative Baker, I hope you would see no hate in my eyes. I would like to reassure him that I do not fear this issue, I hold strongly to the principle that each of us has certain rights and I believe that our Constitution protects those.

I stand before you to say that I do not believe that this legislation before us needs to be in our statutes. I am sorry to say that discrimination does exist for this group and others. Would I like to see it done away with? I most certainly would. But I do not believe this is the step we need to take and I urge you to vote yes on the pending motion.

The SPEAKER: The Chair recognizes the Representative from Sidney, Representative Bragg.

Representative BRAGG: Mr. Speaker, Ladies and Gentlemen of the House: As has been noted, this sometimes can be a difficult issue to address. As I thought it through, I had to realize that my position was firm. In deciding what I was going to say, I would like to present this to you in the context of a conversation between myself and God. "Hey God, this is Harland." "Yes, what can I do for you?" "Well, you see, I have got a question." "That is good, what is it?" "It's that Gay Rights Bill, it is back in the legislature again." "Yes I know -- now what is your problem?" "It is just -- what can I say that won't offend people and still express how I feel?" "Are you more concerned about offending me or the people down there?" "Well, naturally I wouldn't want to offend you." "Okay, we are over that hurdle, the rest should be easy." "But, what should I say?" "Just say that my law is perfect." "What do you mean by that God?" "Why not check the manufacturer's handbook -- I have given you a list of things to do. If anyone follows them, they will have a happy life. I have also given you a list of things not to do, remember?" "Yes, I remember. But why are there things that we shouldn't do?" "That is really quite simple, those are things that will give you trouble in your life. I have given everyone the freedom to choose but I have told them the results of that choice." "Wow, that is kind of rough God." "Yes it is but being in the legislature, you should understand why it is that way." "Why do you say that God?" "Let's put it this way, you have rules to govern yourself in the legislature, don't you?" "Yes." "Now, let me ask you a question -- what would it be like if no one paid any attention to the rules and everyone did just what they thought was right?" "Aside from Speaker Martin getting mad, there would just be chaos, I guess." "That's right, now you are beginning to understand. You see, there are situations where the peace and harmony of the legislature and its ability to conduct its business has to be more important than the desire of a few to disrupt it." "I've got it -- you are saying that, as a legislator, I have to be concerned about each individual but yet my greatest concern has to be for the peace and harmony of our society as a whole, and I should remind people that if we don't follow your rules of good conduct, then you might bring down the gavel like Speaker Martin, right?" "That's right." "Hey God?" "Yes Harland." "How many gavels have you broken?"

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I am tempted to say that my God is a loving God. I would like to say some other things as well.

We have been told, ladies and gentlemen, that our rights are protected by the Constitution -- an appropriate statement to be made in a bicentennial year. However, ladies and gentlemen, I would say to you that if that is true, then why in this state, did we find it necessary in 1972 to pass a Human Rights Act? While I am not the historian that my predecessor was, I think there were a number of reasons. I think the reason was, ladies and gentlemen, because in this state there were places that put up signs that said "Franco-American's Need Not Apply," that said "women go home," that said "if you are Jews, forget it." We now have places that say, "If you are of the same sex and you want a bed, forget it." Almost everyone of us in this chamber fall into a category that is protected by the Human Rights Act.

It was not until 1973 that we, as women, had recourse if we felt that we had been discriminated against in this state.

It was not until 1980 that, if you were over the age of 65, you had a place to go if you found yourself without a job.

It was not until 1979 that, if you were pregnant, you couldn't lose your job. The Human Rights Act, ladies and gentlemen, provide a vehicle for those of us who have felt discrimination in the area of housing, of employment, of credit, of public accommodations, and now we have recourse. That Human Rights Commission asks us today to help them make sure all the citizens of our state enjoy those rights. When we began to talk about race, when we began to talk about handicaps, it was not popular, it was not fun -- we did it. The lawmakers of this state did the right thing, not the easy thing. This bill asks us to do it again.

I urge you ladies and gentlemen of this House that you defeat the motion to indefinitely postpone this bill.

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

Representative CONLEY: Mr. Speaker, Ladies and Gentlemen of the House: I do not want to go over the very eloquent arguments which have been made against this motion to indefinitely postpone this bill. I just think that it is important to bring to the body's attention a sense of what the hearing was like on this bill. I think that this body deserves to know about some of the groups and people that showed up and testified in support of the bill. Of all the hearings that we have had in Judiciary and there have been many, I just don't think a stronger case has been made in favor of any bill in this session. I think that the body should know that the Maine Association of Child Abuse and Neglect Councils, the Maine Home-Economic Association, the Family Violence Project, NAACP, the Maine Human Rights Commission, the Maine Civil Liberties Union, the Maine Council of Churches, the Maine Coalition on Rape, the Maine Commission for Women, the National Organization for Women, the Quakers Church, the Maine Conference of the United Church of Christ, as well as numerous (admitted) practicing heterosexuals, in addition to many gay and lesbian people who showed up to speak about their individual problems, which show the need for this very piece of legislation.

Without any disrespect to Representative Begley, because I am not worried about people like her or

Representative MacBride who would never discriminate against people like this, it is the people who testified against this bill who showed, quite clearly, the need for this bill. Their comments were characterized by bigotry and hate. I cannot think of a case that has been presented to this committee where there were two so very different sides and where one side was so clearly right. For all the reasons that people have given, I would urge to vote against this motion to indefinitely postpone.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I do not stand before you today to try to persuade any one of you to think as I do on this issue. I stand before you only to speak in favor of L.D. 602 rather than just vote yes or no on this very important, emotional, fundamental policy issue.

I have in the past, as a member of this body and will continue as long as I am a member of this body, voted in favor of inclusion of the term "sexual orientation" in the Maine Human Rights Act. To me as an individual and as a legislator, I feel there is no more an important issue that I can deal with as either an individual or as a legislator, than access. Access — that is the crux of this issue. Access for the handicapped — we all have an opinion on that issue; access for the mentally retarded; access for the mentally ill; access for the medicaid patient; access for students into educational systems in this state and in others; access for you and I to stand on this floor and speak our minds on a variety of issues without fear of retribution or discrimination on the basis of our point of view. That same access should be applied to any human being regardless of their specific makeup.

I, therefore, would urge you to vote against the pending motion to indefinitely postpone L.D. 602 and take the necessary step to facilitate that access I have spoken about.

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

Representative HANDY: Mr. Speaker and Members of the House: Those of you who were in this body last session heard me talk about those people who aren't gay who were discriminated against because people based that all on presumptions, people's style, manner, size. I would like to take a different tact this year. As you are all aware, I have a daughter of whom I am very proud, she is 15 months old. Yes, we can hope that she will have a good education and yes, we can hope that she will live in a state with clean air, clean water, a solution to landfill problems, we can hope that there will be economic development that will provide her with all kinds of opportunities. But I would say to my good friend a couple of seats away from me, Representative Begley, that in all of these situations, hope just simply isn't enough. If for no other reason, I want to be assured that, if my daughter is gay, that she is not discriminated against. Put yourselves in that situation, the many of you who have had children in the past two or three years and the many of you who have grandchildren that we have heard so much about, we don't know if they are going to be heterosexual or homosexual. Do you want them to be discriminated against based on the fact that they are homosexual? I don't think you do. I really don't think you do. If there is no other reason for voting for this legislation, it is simply for the children.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: This bill is not aptly called a Gay Rights Bill, I believe, this is a human rights bill, this is in addition to the Human Rights Act.

I think it is important to look at the language of the Human Rights Act to see what it is that we are talking about. We are talking about an act to protect the public health, safety and welfare. The policy of this state shall be to keep continually in review all practices infringing upon the basic human right to a life with dignity. That is what we are talking about, a basic human right of a life with dignity.

We are talking about people like John Maynard Keynes or Rock Hudson. We are not talking about a group out there called gay people, we are talking about human beings here, human beings that you and I have come in contact with or know of, people whom we respect. We are talking about our sons and daughters and our friends, we are talking about noteworthy people as well as less noteworthy people.

Would you tolerate it if Martina Navratilova came to this state to play a tennis match and she was discriminated against in her housing or what restaurant she chose to eat in? Would you discriminate against whether or not Leonard Bernstein or Tchaikovsky should be able to get a loan? Would you discriminate against Lily Tomlin or Oscar Wilde or even Socrates? Would you allow that sort of discrimination to take place in this state or would you say that it should be the policy of this state that human beings, all human beings, should have the benefit of equal protection of the human rights laws to a life with dignity? Would you tolerate it if Truman Capote or Michelangelo came to this state and they should be discriminated against in terms of where that person were allowed to sleep or stay overnight or rent an apartment?

It appears to me that there are times in this body, only rare times, when we are called upon to decide what it is that is right and to proceed on that basis. Most of our decisions are based upon good public policy or a sense of what would be an advantage to this state as a whole. It is only a few occasions that come along, when we are called upon to decide what we believe to be right in the treatment of human beings. This is such a case. I would urge that we all vote against indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Thistle.

Representative THISTLE: Mr. Speaker, Ladies and Gentlemen of the House: I rise before you this evening with just a bit of fear and trepidation, a little quiver in my voice perhaps. I have had any number of people recommend to me that I sit by and remain silent on this issue but they know, as I do, that I come from as conservative a district as perhaps most, if not all, of you do. But I know that we are not here to ensure our own reelection. I know that we are not here just to create a little kingdom unto ourselves. I know that none of us here has taken out a mortgage on our chair. If anything, we are stewards of this seat in the hall of this House and we are called upon to do what we believe to be right. As Representative Holt pointed out and as I believe you read in the Kennebec Journal editorial, "Not what is easy but what is right."

The opposition to this particular Bill, L.D. 602, comes from a narrow fundamental religious sector of

our community. It is supposed to have significant biblical background and justification.

As a boy, I was raised in a family, probably much like most of you or in a family that you raised yourself. I recall, several times, taking trips with my Dad and, on one of those, I was six or eight years old, we drove down a road in a town not far from home and feeling my oats, being one of the boys, being with Dad, I saw an elderly woman crossing the street. Just to cut up, I pointed out to my father -- "Hey, look at that old lady" in some disrespectful manner. I am embarrassed now to relate this but I recall it so vividly. My father pulled the car over to the curb, had me get out and go over to the woman and apologize. He wanted to impress upon me that people in our family and our community did not belittle, did not make fun, did not disparage others. He didn't have the words to say -- it wasn't a thought that he could put in words -- it was an action that was stronger than words and which, as I say, I carry with me even today. I am sure that many of you have similar recollections of lessons you learned at the hands of your mother's and father's.

Few of you know, I don't believe I have made much of this, but in the early 70's after college, I was a student in a theological seminary. It was a Methodist Seminary, Drew Theological Seminary in Madison, New Jersey. It was a very trying time in my life and I barely survived spiritually, to be honest. I am now back in church as a hail member, I would say, of my congregation, the United Church of Christ in Dover-Foxcroft. But as a former seminarian, I would just like to say that this biblical justification for the opposition, in my view and in my reading of the scriptures, has very little validity. There are differences of interpretation, as you are all well aware of. I, myself, have a bible collection that numbers almost 50 volumes, different translations. There are different parts of those that are even left out of others. People have different perspectives on what the word of God was, what it is today. I am moved particularly by the lessons of Jesus himself in the New Testament more than I am the Old Testament scriptures. Particularly I find valid for my life, the concept of agape, which is that of ultimate love and the feeling of self-sacrificial love. That is, I think, how we as Christians attempt to lead our lives.

I would be happy to discuss with any of you, even after this vote, and I am sure I know how the vote is going to go, my views on that interpretation and where I find the truth in the scriptures.

As a Representative, as a citizen, and as a parent of young children, two teenage girls, I feel as Representative Handy feels that the bottom line for me is how I would like my children to be treated were I to find out they were homosexual, were my daughters gay. I think if we all put that in that perspective, we would come out with a very strong response here.

If I may, I would like to share with you, and no one has so far, a list of the groups that support this L.D. or similar one's across the country. I won't read the whole list. I don't have an exhaustive list, my is about 20 or 25 organizations -- The American Bar Association, The American Psychiatric Association, The National Institute of Mental Health, The American Baptist Church, The American Catholic Bishops, the Episcopal Church of the United States of America, The Lutheran Church of America, The Maine Council of Churches, The National Assembly of Religious Brothers--Roman Catholic, The National Council of Churches of Christ, The Presbyterian Church of the United States, The Society

of Friends, The Union of American-Hebrew Congregations, The Unitarian-Universalist Association of the United Church of Christ and the Methodist Church of the United States.

For me folks, I find that what is immoral is the degradation of the human spirit and tolerance that we allow that to happen.

I would urge all of you to vote with me and vote with our absent brother, Representative Connolly, because if he were here, he would be voting in opposition, I am sure, to the indefinite postponement. I will also.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I would like to ask all of you in this chamber to open your minds for the next few moments to seriously consider voting against the motion to indefinitely postpone.

I am a cosponsor of this legislation because I firmly believe that no citizen in the State of Maine should be discriminated against. I know there are citizens in our state who have been and are now suffering from discrimination because of their sexual orientation. I know that all of you know that too.

This act, L.D. 602, does not accept or condone homosexuality as many speakers have said before me. It asks you only to approve granting to gay Maine men and women in our state, the same rights enjoyed by other Maine citizens. I feel a tremendous pain on behalf of my friends who are homosexual, but I also feel a great anger. Discrimination against them is wrong as it is wrong against any other person. It is un-American and it must stop. We must all be judged on the basis of the same criteria and this is not the case now. Many people in our state today have suffered, and continue to suffer injustices, because of intolerance and ignorance. They do not share the same rights as their fellow citizens and they must conceal their sexual orientation if they want to avoid the possibility of discrimination.

May I remind all of us in this legislature that racial intolerance forced this country through a civil war and decades of racial violence. Intolerance of a person's sexual orientation has also led to violence and it has led to different negative but very dangerous consequences that now threaten our own and our children's lives. Peace and harmony cannot be with us as long as this discrimination exists.

There is an old Kinsey Report which I think we might all do well to contemplate for a few moments. It gives us some very important data on the prevalence of homosexuality in our society. It tells us that 25 percent of the male population has more than incidental homosexual experiences or reactions between the ages of sixteen and fifty-five, and that 37 percent of the total male population has at least some overt homosexual experience between adolescence and old age. The exact figures are not what's important here. There are obviously not accurate, women are not included and minorities are not included. The important point is that a very significant number of people in our cities and towns around this state have a sexual orientation which differs from that of the majority.

With respect to sexual orientation, the majority represents a much smaller number of people than is commonly thought, but most of us don't have to think about these figures, because most of this is concealed. Most of our friends and our neighbors who are homosexual are concealing this. People who are homosexual are a part of all of our lives. They are with us in all of our occupations, carpenters,

plumbers, doctors, teachers, social workers, they wait on us in stores, they are the tellers in our banks, they may even be our landlord, or the pilot who flies the plane. They are our neighbors, colleagues and our relatives.

So the rights of homosexuals persons should be a matter of concern to every American person, because homosexuality is undoubtedly present in every American family. As family members, I hope that you would accept your son or your daughter, your husband, your sister, your brother or your parent who reveal to you a sexual orientation that differs from your own. As legislators, I ask you to take the lead in eliminating any form of discrimination against these people, not just because you will be helping people who are close to you, but because you will be helping a significant number of your constituents.

All of you, I am sure, know of my involvement with measures to stop the spread of Aids, currently our nation's most serious health threat, and my efforts to assist those stricken with Aids or HIV related diseases. A few weeks ago in Washington at the national conference of state legislatures, the state federal assembly adopted, unanimously, a policy that will be used in lobbying Congress in attempting to get additional funds and additional efforts on behalf of persons who have Aids and to stop the spread of this disease in our country.

Three years ago, I understand that there was an effort to put out such a policy and it couldn't even emerge from committee. I believe the answer as to why it didn't happen three years ago was that Aids was commonly referred to as the gay disease. People in power were not alarmed at that time because average citizens, they thought, would not be affected. Aids was not a threat to the general community or so they thought. No all-out effort was needed because the threat was not to the general population, but only to the gay community. No panic ensued as happened with Legionnaires' Disease, and no rush to care for the patients, in research, cause, and cure. We are now paying the price for our attitudes towards discrimination of homosexual persons in our society.

Many more Americans have died and will die because we did not launch a preventive educational program at that time. Friends and neighbors of all of us are infected, homosexual and heterosexual. I am angry at the added danger that we have been exposed to because of prejudice, intolerance, and lack of equal rights and respect for one segment of our population. I am angry that people died who might have been able to protect themselves and avoid the disease, had they had information and help. Our state, our small, not so very rich state, will spend millions of dollars now that we have finally recognized the danger and are moving towards taking the right steps in prevention, education, and treatment.

Some of those millions might have been saved; yet the effects of discrimination still remain. Homosexual persons still fear that taking the test for the Aids virus, not to speak of revealing a positive result, will lead to dire consequences, such as loss of job or housing. We must encourage members of high risk groups to be tested as part of the effective control in the spread of this disease. But how can we expect these very vulnerable people to risk the all too frequent consequences of revealing their homosexuality or even arousing a community's suspicion.

I want to call your attention to a recent survey in the Caribou area. 182 questionnaires were sent out to business people in that community. One of the

questions asked was whether the business person would fire an employee if it was learned that the person was a homosexual. 25 percent, one-fourth of the respondents said no, they would not. But 40 percent of the respondents said they would fire an employee if they knew that he or she was a homosexual person. Think of the message these results are sending to the gay community. I could interpret it in no other way than that there would be a high probability of a person being fired if his or her sexual orientation were known to the employer. That is an intolerable situation which must be corrected and can only be corrected by law. If we want people in high risk groups to feel an obligation to the rest of us to help protect us from the Aids disease, then we must give them the only thing they want in return — freedom from discrimination.

Isn't it ironic that the person with Aids cannot be discriminated against because Aids is defined as a handicap, but the person can be discriminated against if that person happens to be a homosexual. The longer we discriminate, the more difficult the task of controlling Aids.

Earlier this month, you probably read about a Congressman who died from Aids. Whether it was from a blood transfusion or from a homosexual encounter that he contracted the virus makes no difference, he is now dead. What is important for us here today is that he did not want the cause of his illness revealed until after his death, and we must ask why. Was it because of the still prevalent attitude in our country that Aids is a gay disease and that to reveal the nature of his illness was to open himself and his family to possible prejudice or discrimination from his fellow countrymen and women?

Gay men and women have always lived the life of systematic disguise. Human resources have always been wasted as gay people make choices that would help protect their sexual orientation. The cost of their life in the closet has been extensive for the persons involved, but also for all the rest of us. I want to see this condition end. I want all people to be judged for themselves and not for their race, sex, religion, or sexual orientation. Basic human rights must be afforded to all and I want to believe that you, my fellow legislators, share my commitment to basic human rights for all.

I would remind all of us again that we are not talking about lifestyle. We are not talking about approving or disapproving of any individual's lifestyle, we are talking about ending discrimination for one segment of Maine's citizens. Men and women of the House, if you vote today to indefinitely postpone this bill, you are voting against your neighbors, your friends, and some of your relatives.

So I ask you to think very carefully before you cast your vote. All citizens of Maine who are homosexual deserve to have the same basic human rights that you and I enjoy, and as I believe, all of you really do want them to enjoy. I ask you in good conscience — can you deny these rights to one group of your fellow citizens? Please 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 Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: Just very briefly, I could hear a little bit of response, someone murmuring about someone getting up to speak a second time and I must say that I have sat here many times and heard many people get up and speak many times, so I hope you will be patient with me. I wouldn't be up if I didn't think it was serious.

On May 12th on our Calendar, the prayer was offered by Father Raymond Belanger of St. John's Catholic Church in Brunswick and he said in his message, "May we never as legislators be the instrument of injustice to the people of Maine." I wrote it down that day because I thought it would be important whenever this day came about. On that same day, someone made the statement on this floor of the House, "We are not a court of law, we are a legislative body." I can't let this go by without commenting again that this is what I am trying to say to us, that we are not in a position where we should be making laws having to do with morality, but rather with just the laws of the state themselves.

I would like to just reemphasize something that Representative Rydell said and that is about the people we are talking about. As I have said before, this is not, for instance, a Dale McCormick bill (and as many of you know) because she has been courageous enough and others like Dale have been courageous enough to put their life on the line you might say, and their job and their existence. This is for the many thousands of people in this state that each of you, whether you want to admit it or not, whether you are ignoring it or not, work with, play golf with, go to parties with, associate with in so many ways, including I would suspect, even within the legislature of this State of Maine.

We have got to stop ignoring the fact and continue to say and hide behind the statement that they are protected. They are not protected. I know and you know that there are many thousands of very talented, intelligent, bright people in this state who are homosexuals and who do not come out and admit they are because they are bright enough to know that there is prejudice there. And as Representative Connolly said, I don't see how anybody who was at that hearing and sat through that hearing and heard the testimony, and I mean I don't see how anybody who was there and heard the testimony, could possibly not realize the prejudice that exists and the problems that face these people.

Once again, I sincerely ask you to vote against the pending motion.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I do not intend to debate this issue thoroughly. This is the fourth time that I will be voting on this. Three times I voted against it and today I will again vote against it.

What I would like to bring to your attention is that, in 1985, I sent out at questionnaire to my constituents and I had 446 responses. The question that I asked was, "Are you in favor of liberalizing laws pertaining to homosexuals?" The answer came back and 85 that said yes, 308 said no, and 53 were undecided. As far as I am concerned, I represent the people of my district, they are opposed to liberalizing the laws and I will vote accordingly, and I hope you follow the same pattern.

The SPEAKER: The pending question before the House is the motion of the Representative from Presque Isle, Representative MacBride, that L.D. 602 be indefinitely postponed. Those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 77

YEA - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Carter, Cashman, Clark, H.; Cote, Crowley, Curran, Davis, Dexter, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Hale, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Hussey, Ingraham, Jackson, Jalbert, LaPointe, Lawrence, Lisnik, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; Matthews, K.; McHenry, McPherson, Michaud, Moholland, Murphy, E.; Nicholson, Norton, Paradis, E.; Parent, Paul, Perry, Pines, Racine, Reed, Rice, Richard, Ridley, Rotondi, Salisbury, Sheltra, Sherburne, Small, Smith, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Swazey, Tamaro, Taylor, Telow, Tupper, Walker, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Allen, Anthony, Baker, Bost, Boutilier, Carroll, Chonko, Clark, M.; Coles, Conley, Dellert, Diamond, Dore, Gwadlosky, Handy, Hickey, Hoglund, Holt, Joseph, Ketover, Kilkelly, Lacroix, Mahany, Manning, Mayo, Melendy, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paradis, P.; Pouliot, Priest, Rand, Rolde, Rydell, Seavey, Simpson, Stevens, P.; Thistle, Tracy, Warren.

ABSENT - Duffy, Dutremble, L.; Hillock, Jacques, Kimball, Lebowitz, McGowan, McSweeney, Murphy, T.; Reeves, Ruhlin, Scarpino, Strout, D.; Tardy, Vose, The Speaker.

Yes, 88; No, 45; Absent, 16; Vacant, 2; Paired, 0; Excused, 0.

88 having voted in the affirmative and 45 in the negative with being 16 absent and 2 vacant, the motion to indefinitely postpone did prevail.

TABLED AND ASSIGNED
Non-Concurrent Matter

Bill "An Act to Extend Maine's Bottle Bill" (H.P. 662) (L.D. 895) which was passed to be engrossed in the House on May 21, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendments "A" (S-89) and "E" (S-94) in non-concurrence.

On motion of Representative Allen of Washington, tabled pending further consideration and specially assigned for Thursday, May 28, 1987.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333

May 26, 1987

Hon. Edwin H. Pert
Clerk of the House
State House Station #2
Augusta, Maine 04333
Dear Clerk Pert:

This is to notify you that pursuant to my authority under Chapter 17 of the Resolves of Maine, 1987, I have today appointed the following to serve on the Commission to Review the Laws Relating to Registered Maine Guides:

Rep. Paul F. Jacques, Waterville
Rep. Dorothy A. Rotondi, Athens
Rep. Carol M. Allen, Washington
Rep. Michael Swazey, Bucksport
Rep. Frank H. Farren, Jr., Cherryfield

Sincerely,
S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act Relating to Radon Gas" (H.P. 714) (L.D. 965)

Signed:

Senators: BRANNIGAN of Cumberland
BALDACCI of Penobscot
WHITMORE of Androscoggin

Representatives: SHELTRA of Biddeford
LEBOWITZ of Bangor
REED of Falmouth
HILLOCK of Gorham

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

Signed:

Representatives: ALLEN of Washington
ALIBERTI of Lewiston
STEVENS of Sabattus
GURNEY of Portland
TELLOW of Lewiston
RACINE of Biddeford

Reports were read.

On motion of Representative Allen of Washington, the House accepted the Minority "Ought to Pass" Report, the bill read once and assigned for second reading Thursday, May 28, 1987.

CONSENT CALENDAR

First Day

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

(S.P. 499) (L.D. 1516) Bill "An Act to Clarify the Laws Pertaining to Payment for Medical Services" Committee on Judiciary reporting "Ought to Pass"

(S.P. 521) (L.D. 1573) Bill "An Act to Amend the Maine Juvenile Code" Committee on Judiciary reporting "Ought to Pass"

(S.P. 81) (L.D. 167) Bill "An Act to Expedite the Processing of Environmental Permits" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-87)

(H.P. 504) (L.D. 677) Bill "An Act to Make Allocations for the Operating Expenditures of the Intergovernmental Telecommunications Fund of the Department of Administration for the Fiscal Years ending June 30, 1988, and June 30, 1989" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-185)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 28, 1987, 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. 84) (L.D. 170) Bill "An Act to Provide State Funding Necessary to Match Federal Funds for Home and Community Based Services for Older Citizens"

(S.P. 489) (L.D. 1471) RESOLVE, Authorizing the Director of Parks and Recreation to Convey by Deed

the Interest of the State in Certain Parcels of Real Property

(S.P. 501) (L.D. 1518) Bill "An Act to Clarify the Law Regarding Prohibition of Employment Penalties or Interference Against State Military Force Members" (C. "A" S-85)

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

PASSED TO BE ENGROSSED

Bill "An Act to Continue Insurance Coverage for Mental Health, Alcohol and Substance Abuse Treatment Services for Maine Citizens" (S.P. 561) (L.D. 1674)

Bill "An Act Concerning Liability Insurance Coverage for Amusement Devices" (S.P. 560) (L.D. 1673)

Bill "An Act Relating to the Term of Air Emission Licenses" (H.P. 1226) (L.D. 1675)

Bill "An Act to Establish Field Offices of the Maine Land Use Regulation Commission" (H.P. 1227) (L.D. 1676)

Bill "An Act Concerning the Reporting of Political Advertising Provided under the 'Fairness Doctrine'" (H.P. 1228) (L.D. 1677)

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

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

REPORTS OF COMMITTEES

Divided Report

TABLED AND ASSIGNED

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act to Increase the Minimum Wage" (H.P. 869) (L.D. 1170)

Signed:

Senators: DUTREMBLE of York
ANDREWS of Cumberland
MCHENRY of Madawaska
RAND of Portland
HALE of Sanford
TAMMARO of Baileyville
RUHLIN of Brewer
JOSEPH of Waterville

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

Signed:

Senator: COLLINS of Aroostook
Representatives: WILLEY of Hampden
ZIRNKILTON of Mount Desert
BEGLEY of Waldoboro
HEPBURN of Skowhegan

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

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

This is a minimum wage bill and all I have to say is, it is a good bill, we ought to pay our workers in the State of Maine. If we had the opportunity today to have an industry come into the state that would offer \$43 million directly into the economy of the State of Maine, we would all be up here in arms in trying to help those people out. We would put out money, we would increase and give them tax breaks, but, right now, we have that opportunity by voting

for an increase in the minimum wage of 10 cents per year, which is not much. It comes out to \$14,560,000 per year into the economy directly through the small businesses of the state — through the restaurants, clothing, the food businesses of this state. I certainly hope that you will vote for an increase in the minimum wage and I would ask for the yeas and nays.

On motion of Representative Diamond of Bangor, tabled pending the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report and specially assigned for Thursday, May 29, 1987 (Roll Call requested).

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

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Develop a Coordinated Local Response to Adolescent Pregnancy" (H.P. 700) (L.D. 941) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Encourage Postponement of Sexual Activity among Unmarried Teenagers" (H.P. 921) (L.D. 1233) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds for New and Existing Services for the Prevention of Teen Pregnancy and to Reduce the Adverse Effects of Teen Parenting" (H.P. 488) (L.D. 655) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Prevent the Use of Undercover Police Agents and to Regulate the Use of Undercover Police Agents in Labor Relations Matters" (H.P. 754) (L.D. 1017) reporting "Leave to Withdraw"

Representative COTE from the Committee on Judiciary on Bill "An Act Relating to Liability Insurance for Emergency Medical Service" (H.P. 636) (L.D. 859) reporting "Leave to Withdraw"

Representative THISTLE from the Committee on Judiciary on Bill "An Act to Increase Financial Support from Parents of Children in the Care or Custody of the Department of Human Services" (H.P. 1067) (L.D. 1450) reporting "Leave to Withdraw"

Representative BEGLEY from the Committee on Judiciary on Bill "An Act to Protect Abused Children and Dependent Adults" (H.P. 1131) (L.D. 1541) reporting "Leave to Withdraw"

Representative NORTON from the Committee on Education on Bill "An Act to Amend the Teacher Recognition Grants Program" (H.P. 839) (L.D. 1130) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Education on Bill "An Act to Revise the Laws Relative to Reapportionment of School Administrative Districts" (H.P. 741) (L.D. 1004) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(H.P. 1093) (L.D. 1484) Bill "An Act to Amend the State Funding of Pollution Abatement Projects" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-186)

(H.P. 979) (L.D. 1326) Bill "An Act Concerning Mussel Harvesting" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-187)

(H.P. 1136) (L.D. 1546) Bill "An Act to Make Consistent the Federal Veterans' Reemployment Law" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-190)

(H.P. 964) (L.D. 1293) Bill "An Act to Allow the Employment of Part-time Superintendents of Schools" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-191)

(H.P. 897) (L.D. 1198) Bill "An Act to Implement Project ASPIRE for High School Students in the State" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-192)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 28, 1987, under the listing of Second Day.

The Chair laid before the House the following matter: Bill "An Act to Change the Perry-Pembroke Boundary Line" (H.P. 1139) (L.D. 1549) (H. "A" H-160) (Emergency) which was tabled earlier in the day and later today assigned pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 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.

The Chair laid before the House the following matter: Bill "An Act to Improve the Teacher and Administrator Certification Law" (H.P. 1195) (L.D. 1629) (S. "A" S-78) which was tabled earlier in the day and later today assigned pending the motion of Representative Small of Bath to indefinitely postpone.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative Small of Bath to indefinitely postpone and specially assigned for Thursday, May 28, 1987.

The Chair laid before the House the following matter: Bill "An Act to Enhance the Activities of the Maine Highway Safety Committee" (H.P. 511) (L.D. 684) (C. "A" H-126) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 684 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-189) and moved its adoption.

House Amendment "B" (H-189) was read by the Clerk and adopted.

Subsequently, the bill was passed to be engrossed as amended House Amendment "B" in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Provide an Accident and Sickness or Health Insurance Program to Retired Teachers" (S.P. 522) (L.D. 1637) (S. "A" S-77) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Soucy offered House Amendment "A" (H-194) and moved its adoption.

House Amendment "A" (H-194) was read by the Clerk.

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

Representative SOUCY: Mr. Speaker, Men and Women of the House: I think the Statement of Fact states what this does.

This amendment will eliminate the discrimination of approximately 3,000 retired teachers who would not be eligible to participate in this program if the bill is not amended. I think that is discriminatory, I think it is unfair. There are many reasons why teachers may not have opted to take the Blue Cross-Blue Shield plan offered by the MTA or the Maine Municipal Association.

I would like to give you a couple of examples. One example — I have a couple of retired teachers in my district who taught for sixty-two years. Their husbands happened to be employed by the Portsmouth Naval Shipyard. They participated in the federal program. When both the husband and wife retired from their respective employers, they still opted for the federal program, but about two years down the road, both of those teachers were involved in divorce proceedings and right now, under the current bill, they would not be eligible to get this benefit if it is so enacted. I could give you several other examples.

I just feel that the bill, as now printed, is discriminatory against about 3,000 teachers and I will remind you that last Thursday, we gave \$900,000 for a program for 3,000 employees who cannot afford Blue Cross-Blue Shield payments. Yet this bill is going to discriminate against a potential 3,000 retired teachers.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: It is with apprehension that I move indefinite postponement of this amendment.

This is the third time in my memory this legislation has been submitted. It has a price tag of \$8 million and in the past has been defeated due to the cost. Many of the retirees are people who retired 15 or 20 years ago with a \$400 per month retirement check in the era of low pay. They have been drastically affected by inflation and have had difficulty making ends meet.

Our committee felt obligated to face this problem in some manner to assist these people in paying for their health program. Realizing the constraints of the budget, we voted to fund 10 percent of their program hoping in the future years it would be increased. We tried to develop a bill that would, in some way, assist these people and survive the Appropriations Table. Our bill had a price tag of \$247,823 in 1987 and \$330,430 in 1988. The amendment increases the cost to \$467,823 in 1987 and \$580,430 in 1988. Our concern is that these increases will jeopardize the chance of providing badly needed assistance to these retirees.

I ask for your support in defeating this amendment. I ask for a roll call.

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

Representative SOUCY: Mr. Speaker, Men and Women of the House: I would like to respond to a couple of points that my good friend, Representative Hickey, made. What he said is that he is trying to help these teachers, but in fact, if a teacher did not elect to enroll in a Blue Cross-Blue Shield program 10 or 15 years ago, they will not be eligible under this bill.

Secondly, cost. I went down and argued cost with the Finance Office — didn't get too far. But this is the highest cost if all 3,000 teachers who (would be excluded from the plan) took it. Right in this body, you have about 18 people who are eligible for that plan, and they probably will never participate in this program because we have a legislative plan. I suspect of the 3,000 out there, and I have no figures, but I suspect we have about five or six or seven hundred people that are going to fall through the cracks, unless you accept my amendment. I think it is discriminatory.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: It is reluctance that I rise to speak in opposition to my chairman and good friend, Representative Hickey of Augusta. At the time that we debated this issue in committee, this was a bill that I had been wanting to see for a long time. Each and every state employee (I am a retired state employee) has their medical insurance taken care of. The teachers do not. Why wasn't it ever taken care by the MTA? I think they were very derelict in not doing it years ago.

I went along with the bill and 10 percent. The bill was unanimous out of the Aging, Veterans and Retirement Committee but since it came out, it was brought to my attention that there would be some people who would definitely fall through the cracks. This is what they call the open enrollment. I wasn't aware that there were that many teachers who would be affected by this bill, if it went through as it did. I knew that the price had been increased drastically but, in looking it over and finding out that there were that many retired teachers, who would fall through the cracks, the one's that need it, I feel that we can afford the extra compensation to them. I would ask at this time, and I know that I am going against my original vote in committee to go as it was, having seen how many good teachers will fall through the cracks and not being included in this, that you would go along and not indefinitely postpone.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

To anyone on the committee, I would ask why were these 3,000 teachers excluded in the first place?

The SPEAKER: The Representative from Orono, Representative Bott, has posed a question to the Chair to anyone on the committee who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: We tried in committee to develop a bill that we were hopeful of surviving on the Appropriations Table. The bill, as it was drafted, took care of all the people that had been involved previously in the health plan.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Harper.

Representative HARPER: Mr. Speaker, Men and Women of the House: I would encourage your support

of the motion to indefinitely postpone this amendment. As it presently stands, our teachers are considered to be state employees for retirement purposes only. Many of our elderly teachers received very low pay. They did not receive Social Security benefits and their retirement income is inadequate and the cost of health insurance is a severe burden. The committee would have like very much to have pleased all of those people by offering 100 percent funding for the health insurance and to have provided an open enrollment for all of our retired teachers but we also have to face up to a serious problem — the cost was estimated to be over \$6 million annually. The Retirement System is already straining under an unfunded liability of well over a billion dollars. There is a risk involved in offering an open enrollment. There is no way to estimate the number of people who will enter into this system but an increase in premiums for all is a certainty. The estimated cost to the state, for just a 10 percent share of health premiums on the open enrollment plan, is \$165,000 for the first year to the state and \$220,000 the second year, a minimum of \$650,000 annually in the years that will be following.

The compromise plan which was offered by the committee — we worked hard on it, although we would have liked very much to have done more for everybody, this seemed like a sensible compromise.

I would urge that you support the motion to indefinitely postpone the amendment which is before us.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: I hope you will support Representative Hickey's motion to indefinitely postpone. I do so with regret. We worked very hard in our committee all year and there are so many of our bills where people fall through the cracks, they just do not come up to the requirements and we do so many, many times wish that we had the extra money to fund these various, necessary bills. That is why we did the very best we could on this bill and funded those teachers who had been a member of the system.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Augusta, Representative Hickey, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 78

YEA - Aliberti, Anderson, Anthony, Armstrong, Bailey, Baker, Begley, Bost, Boutilier, Bragg, Carroll, Carter, Cashman, Clark, H.; Coles, Conley, Cote, Crowley, Curran, Dellert, Diamond, Dore, Farnum, Farren, Foster, Gould, R. A.; Greenlaw, Gwadosky, Hale, Handy, Harper, Hickey, Holt, Ingraham, Joseph, Lacroix, LaPointe, Lisnik, Look, Mahany, Manning, Matthews, K.; McHenry, Nadeau, G. G.; Norton, Nutting, O'Gara, Paradis, E.; Paradis, P.; Paul, Pines, Pouliot, Priest, Richard, Rolde, Rydell, Sherburne, Simpson, Stevens, A.; Stevens, P.; Stevenson, Swazey, Taylor, Telow, Thistle, Tracy, Wentworth, Whitcomb.

NAY - Allen, Bickford, Bott, Callahan, Clark, M.; Davis, Erwin, P.; Foss, Garland, Gurney, Hepburn, Hichborn, Higgins, Hoglund, Holloway, Hussey, Jackson, Jalbert, Kil Kelly, Lawrence, Lord, MacBride, Macomber, Martin, H.; Mayo, McPherson, Melendy, Michaud, Mitchell, Moholland, Murphy, E.; Nadeau, G. R.; Nicholson, Paradis, J.; Parent, Perry, Racine, Rand, Reed, Rice, Ridley, Rotondi, Salsbury, Seavey, Sheltra, Small, Smith, Soucy, Stanley, Strout, B.; Tamaro, Tupper, Walker, Warren, Webster, M.; Willey, Zirkilton.

ABSENT - Brown, Chonko, Dexter, Duffy, Dutremble, L.; Hanley, Hillock, Jacques, Ketover, Kimball, Lebowitz, Marsano, McGowan, McSweeney, Mills, Murphy, T.; Reeves, Ruhlin, Scarpino, Strout, D.; Tardy, Vose, Weymouth, The Speaker.

Yes, 68; No, 57; Absent, 24; Vacant, 2; Paired, 0; Excused, 0.

68 having voted in the affirmative and 57 in the negative with 24 being absent and 2 vacant, the motion to indefinitely postponed House Amendment "A" did prevail.

Subsequently, the Bill was passed to be engrossed as amended by Senate Amendment "A" (S-77) in concurrence.

(Off Record Remarks)

On motion of Representative Smith of Island Falls, Adjourned until Thursday, May 28, 1987, at nine o'clock in the morning.