

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

Volume II

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First Special Session

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Second Regular Session

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Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
29th Legislative Day
Thursday, April 1, 2004

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

Prayer by Pastor E. Terry Courtney, Mt. Zion Chapel, Wells.

National Anthem by Kora Shrine Chanters, Lewiston.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (S.P. 792)

STATE OF MAINE

121ST MAINE LEGISLATURE

March 29, 2004

Sen. Lynn Bromley

Senate Chair, Joint Standing Committee on

Business, Research and Economic Development

Rep. Nancy B. Sullivan

House Chair, Joint Standing Committee on

Business, Research and Economic Development

121st Legislature

Augusta, ME 04333

Dear Senator Bromley and Representative Sullivan:

Please be advised that Governor John E. Baldacci has nominated Douglas F. Beaulieu of Madawaska and Sara Gagne Holmes of Augusta for appointment as members of the Loring Development Authority.

Pursuant to Title 5 M.R.S.A. Section 13080-B, these nominations will require review by the Joint Standing Committee on Business, Research and Economic Development and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**.

READ and **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** in concurrence.

The Following Communication: (S.P. 793)

STATE OF MAINE

121ST MAINE LEGISLATURE

March 29, 2004

Sen. Neria R. Douglass

Senate Chair, Joint Standing Committee on

Education and Cultural Affairs

Rep. Glenn A. Cummings

House Chair, Joint Standing Committee on

Education and Cultural Affairs

121st Legislature

Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:

Please be advised that Governor John E. Baldacci has nominated Barry D. McCrum of Mars Hill, Margaret A. Weston of Yarmouth, and Charles L. Johnson III of Hallowell for reappointment; Paul J. Mitchell of Waterville, Jean Flahive of

Eastport, and Victoria M. Murphy of Portland for appointment as members of the Board of Trustees, University of Maine System. Pursuant to P&SL 1865, c. 532, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS**.

READ and **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.P. 794)

STATE OF MAINE

121ST MAINE LEGISLATURE

March 29, 2004

Sen. Peggy A. Pendleton

Senate Chair, Joint Standing Committee on

Judiciary

Rep. William S. Norbert

House Chair, Joint Standing Committee on

Judiciary

121st Legislature

Augusta, ME 04333

Dear Senator Pendleton and Representative Norbert:

Please be advised that Governor John E. Baldacci has nominated Robert E. Murray, Jr. of Bangor for appointment as Bangor Maine District Court Judge.

Pursuant to Title 4 M.R.S.A. § 157, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Beverly C. Daggett

President of the Senate

S/Patrick Colwell

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **JUDICIARY**.

READ and **REFERRED** to the Committee on **JUDICIARY** in concurrence.

The Following Communication: (S.P. 795)

STATE OF MAINE

121ST MAINE LEGISLATURE

March 29, 2004

Sen. Kenneth T. Gagnon

Senate Chair, Joint Standing Committee on

Legal and Veterans Affairs

Rep. Joseph E. Clark

House Chair, Joint Standing Committee on

Legal and Veterans Affairs

121st Legislature

Augusta, ME 04333

Dear Senator Gagnon and Representative Clark:

Please be advised that Governor John E. Baldacci has nominated A. Mavourneen Thompson of Peaks Island for appointment and Andrew Ketterer of Madison for reappointment as members of the Commission on Governmental Ethics and Election Practices.

Pursuant to Title 1 M.R.S.A. § 1002, these nominations will require review by the Joint Standing Committee on Legal and Veterans Affairs and confirmation by the Senate.

Sincerely,
S/Beverly C. Daggett
President of the Senate
S/Patrick Colwell
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

READ and **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by the Calais School District" (EMERGENCY)

(H.P. 1452) (L.D. 1953)

Sponsored by Representative PERRY of Calais.
Cosponsored by Senator SHOREY of Washington.
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed.

Sent for concurrence.

Bill "An Act To Create a Nonresident Lobster and Crab Fishing License"

(H.P. 1454) (L.D. 1954)

Sponsored by Representative BULL of Freeport. (GOVERNOR'S BILL)

Committee on **MARINE RESOURCES** suggested and ordered printed.

On motion of Representative BULL of Freeport, **TABLED** pending **REFERENCE** and later today assigned.

ORDERS

On motion of Representative WHEELER of Kittery, the following House Order: (H.O. 52)

ORDERED, that Representative Patricia A. Blanchette of Bangor be excused Monday, March 22nd and Tuesday, March 23rd for health reasons.

AND BE IT FURTHER ORDERED, that Representative Scott W. Cowger of Hallowell be excused Tuesday, March 9th, Wednesday, March 10th, Thursday, March 11th for health reasons and Thursday, March 18th and Friday, March 19th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Robert A. Daigle of Arundel be excused Monday, March 22nd, Tuesday, March 23rd, Thursday, March 25th, and Friday, March 26th for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Randy E. Hotham of Dixfield be excused Monday, March 22nd, and Tuesday, March 23rd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jeff Kaelin of Winterport be excused Thursday, March 11th, Tuesday, March 16th, Wednesday, March 17th, Thursday, March 18th,

Friday, March 19th, Monday, March 22nd and Tuesday, March 23rd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative John L. Patrick of Rumford be excused Monday, March 22nd and Tuesday, March 23rd for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard M. Sykes of Harrison be excused Thursday, March 25th, Friday, March 26th, Monday, March 29th and Tuesday, March 30th for personal reasons.

READ and **PASSED**.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

the members of the Rangeley Lakes Regional School Girls Basketball Team, who are the 2003-2004 Class D State Champions. The team set a 3-pointer state championship game record by making 9 of them. Their victory capped off a perfect 21-0 season, giving them their 3rd State Class D Title. We extend our congratulations to the team members: players Emily George, Krista Brackett, Ashley Quimby, Ashley Morton, Abby Madeira, Kelly Brooks, captain Rosie LaPointe, Justine Frost-Kolva, Krysteen Romero, captain Sarah Schrader, Rhea Golub and Sabrina Clark; coach Heidi Deery; assistant coach Martha Nichols; and manager Kate Jamison;

(HLS 1401)

Presented by Representative JODREY of Bethel.
Cosponsored by Senator WOODCOCK of Franklin.

On **OBJECTION** of Representative JODREY of Bethel, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Bethel, Representative Jodrey.

Representative **JODREY**: Mr. Speaker, Ladies and Gentlemen of the House. Back in February the Rangeley Regional Class D Girl's Basketball Team, under the direction of Heidi Deery, set a state record of making nine three pointers in their last game to win the Class D Basketball Championship Title. The victory completed a 21 to 0 season for the Lakers, giving the school its third title with others coming in 1984 and 1993. I am honored to have this group of accomplished young women as my guests today. Thank you Mr. Speaker.

Subsequently, was **PASSED** and sent for concurrence.

Representative CLARK of Millinocket assumed the Chair.
The House was called to order by the Speaker Pro Tem.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Public Law and Resolve
Representative McKEE for the **Joint Standing Committee on Agriculture, Conservation and Forestry** on Bill "An Act To Regulate the Breeding and Sale of Small Mammals"

(H.P. 1453) (L.D. 1952)

Reporting **Ought to Pass** pursuant to Public Law 2003, chapter 350, section 2 and Resolve 2003, chapter 101, section 3.
Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**.

The Bill was assigned for **SECOND READING** Friday, April 2, 2004.

Ought to Pass Pursuant to Joint Order

Representative BULL for the **Committee on Marine Resources** on Resolve, Directing the Commissioner of Marine Resources To Review the Issues Associated with the Issuance of a Nonresident Lobster License

(H.P. 1455) (L.D. 1955)

Reporting **Ought to Pass** pursuant to Joint Order 2003, H.P. 1448.

Report was **READ** and **ACCEPTED**. The Resolve **READ ONCE**.

Under suspension of the rules, the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-460)** on Bill "An Act To Protect the Rights of State Workers"

(S.P. 374) (L.D. 1150)

Signed:

Senators:

EDMONDS of Cumberland

STANLEY of Penobscot

Representatives:

SMITH of Van Buren

HUTTON of Bowdoinham

HATCH of Skowhegan

PATRICK of Rumford

WATSON of Bath

JACKSON of Fort Kent

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

TREADWELL of Carmel

CRESSEY of Baldwin

NUTTING of Oakland

Came from the Senate with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

READ.

Representative WATSON of Bath moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-820)** on Bill "An Act To Improve Standards for Public Assistance to Employers in the State"

(H.P. 424) (L.D. 561)

Signed:

Senators:

EDMONDS of Cumberland

STANLEY of Penobscot

Representatives:

SMITH of Van Buren

HUTTON of Bowdoinham

HATCH of Skowhegan

PATRICK of Rumford

JACKSON of Fort Kent

WATSON of Bath

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

TREADWELL of Carmel

CRESSEY of Baldwin

NUTTING of Oakland

READ.

Representative WATSON of Bath moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1360) (L.D. 1836) Bill "An Act To Amend the Laws Governing Purchase of Military Time Served under the Maine State Retirement System" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-839)**

(H.P. 1382) (L.D. 1856) Bill "An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners" (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-833)**

(H.P. 1398) (L.D. 1882) Bill "An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2004-05" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-837)**

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

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 638) (L.D. 1706) Bill "An Act To Ensure Appropriate Care and Custody of Children Orphaned by Domestic Violence" (C. "A" S-466)

(S.P. 729) (L.D. 1881) Bill "An Act To Amend the Law Governing the Storage of Spirits" (C. "A" S-469)

(H.P. 1431) (L.D. 1931) Bill "An Act To Provide for a Limited Transition Provision for Renewal of Certain Social Worker Licenses" (EMERGENCY)

(H.P. 1335) (L.D. 1813) Bill "An Act To Make Minor Substantive Changes to the Tax Laws" (C. "A" H-824)

(H.P. 1399) (L.D. 1883) Bill "An Act To Coordinate Education, Job Training and Employers in Maine" (C. "A" H-825)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

(S.P. 619) (L.D. 1687) Bill "An Act To Protect the Privacy of Home Information of Maine State Retirement System Members, Benefit Recipients, Trustees and Staff" (C. "A" S-442)

On motion of Representative CRESSEY of Baldwin, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

The same Representative **REQUESTED** a roll call on **ACCEPTANCE** the Committee Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is acceptance of the Committee Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 383

YEA - Adams, Andrews, Annis, Ash, Austin, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Smith N, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Brannigan, Bryant-Deschenes, Churchill J, Daigle, Dugay, Goodwin, Greeley, Jennings, Jodrey, Marraché, McNeil, Millett, Pellon, Perry J, Simpson, Smith W, Sullivan.

Yes, 133; No, 0; Absent, 18; Excused, 0.

133 having voted in the affirmative and 0 voted in the negative, with 18 being absent, and accordingly the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-442)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-442)** in concurrence.

(H.P. 984) (L.D. 1339) Bill "An Act To Amend the Laws Governing Campaign Finance" (C. "A" H-828)

On motion of Representative GLYNN of South Portland, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

The same Representative **REQUESTED** a roll call on **ACCEPTANCE** the Committee Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is acceptance of the Committee Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 384

YEA - Adams, Andrews, Annis, Ash, Austin, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Shields, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Davis, Joy, Sherman.

ABSENT - Barstow, Brannigan, Bryant-Deschenes, Churchill J, Daigle, Dugay, Goodwin, Greeley, Jodrey, Marraché, McNeil, Millett, Pellon, Perry J, Smith W, Sullivan.

Yes, 132; No, 3; Absent, 16; Excused, 0.

132 having voted in the affirmative and 3 voted in the negative, with 16 being absent, and accordingly the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-828)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules, the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-828)** and sent for concurrence.

(H.P. 1326) (L.D. 1804) Bill "An Act To Clarify Property Eligible for Reimbursement of Property Taxes under the Business Equipment Tax Reimbursement Program" (C. "A" H-823)

On motion of Representative LEMOINE of Old Orchard Beach, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

BILLS IN THE SECOND READING

Senate

Bill "An Act Relating to Certain Energy Responsibilities of the Public Utilities Commission"

(S.P. 791) (L.D. 1949)

House as Amended

Bill "An Act To Reduce Contamination of Breast Milk and the Environment from the Release of Brominated Chemicals in Consumer Products"

(H.P. 1312) (L.D. 1790)
(C. "A" H-822)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED** in concurrence and the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

Bill "An Act Relating to Energy-related Building Standards"

(S.P. 790) (L.D. 1948)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative McKENNEY of Cumberland, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is Passage to be Engrossed. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 385

YEA - Adams, Andrews, Annis, Ash, Austin, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bull, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Shields, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Brannigan, Bryant-Deschenes, Bunker, Churchill J, Dugay, Goodwin, McNeil, Millett, Pellon, Perry J, Sherman, Smith W, Sullivan.

Yes, 137; No, 0; Absent, 14; Excused, 0.

137 having voted in the affirmative and 0 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED** in concurrence.

Bill "An Act to Make the Children's Ombudsman Program an Independent Office"

(H.P. 81) (L.D. 73)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED** and later today assigned.

Bill "An Act To Repeal Certain Boards and Commissions"

(H.P. 1450) (L.D. 1950)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative COLLINS of Wells, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is Passage to be Engrossed. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 386

YEA - Adams, Andrews, Annis, Ash, Austin, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bull, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Neil, Paradis, Patrick, Peavey-Haskell, Percy, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young.

NAY - Dunlap.

ABSENT - Barstow, Brannigan, Bryant-Deschenes, Bunker, Churchill J, Goodwin, Hatch, Mailhot, McNeil, Millett, O'Brien L, Pellon, Perry J, Rines, Smith W, Sullivan, Mr. Speaker.

Yes, 133; No, 1; Absent, 17; Excused, 0.

133 having voted in the affirmative and 1 voted in the negative, with 17 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

Bill "An Act To Give Teachers a Greater Voice in School Improvement"

(H.P. 990) (L.D. 1344)
(H. "A" H-829 to C. "A" H-804)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative ANDREWS of York, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending **PASSAGE TO BE ENGROSSED as Amended** and later today assigned. (Roll Call Ordered)

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The following item was taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (S-436)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (S-437)** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Prevent the Sale of Water Laced with Nicotine in Maine"

(S.P. 587) (L.D. 1631)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-436)**.

TABLED - March 30, 2004 (Till Later Today) by Representative KANE of Saco.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. The Majority Report supports Maine's continued effort to reduce the harmful effects of dependency on tobacco products. We are all proud of our success in reducing teen smoking and the facts speak now for themselves and in encouraging a non-addictive healthy lifestyle. The advent of nicotine laced water on our store shelves, which most of us were completely oblivious to, no one knew about it, this runs completely counter to all of our public education and enforcement efforts to help young people and adults to end their dependency on nicotine. Water laced with nicotine represents an insidious effort to undermine the progress that we have made. Insidious because it is both easily accessible and undetectable. Children can get it from adults and older kids and carry very harmless looking bottles around in school and at social and sporting events with no one aware that they are circumventing a law designed to keep them healthy.

Maine wants to do everything it can to support smokers in their efforts to quit smoking and to avoid exposing others to second hand smoke. However, I do not believe that anyone

should be able to put a highly addictive and potentially dangerous substance, such as nicotine, into bottled water and sell it to consumers without the protection afforded by FDA review and approval.

In December 2001, a group of national organizations including the American Medical Association, the American Public Health Association, the American Cancer Association, the American Lung Association and the American Heart Association petitioned the FDA to require pre-market approval of nicotine water as a drug to classify and regulate it as a food containing hazardous unapproved additive. While a petition was pending, the patent for nicotine water was sold to another company now called QT5, which simply changed the name of the product to Nico-Water and continued to sell it. On July 2, 2002, the FDA granted the citizen petition to these organizations to stop the sale of nicotine water, recognizing nicotine addiction as a disease and finding nicotine water to be an unapproved drug because it was intended to treat or mitigate nicotine addiction.

Mr. Speaker, I urge your support of the Majority Report. Mr. Speaker, when the vote is taken, I request a roll call.

Representative **KANE** of Saco **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Waterville, Representative Marraché.

Representative **MARRACHE**: Mr. Speaker, Men and Women of the House. I also rise to ask that you support the Majority Report. As someone who sees many people who are addicted to nicotine trying unsuccessfully, it actually takes 10 tries to try and get off cigarette smoking. This can only be harmful. I don't see how it can really help people who are already trying to get off smoking. If you were still smoking or put a patch on, people actually do put on patches and still smoke, and then drink this, you could be potentially getting way more nicotine than you can safely have in your body. You could have serious side affects. My biggest worry is for young children who might inadvertently get a hold of this water and start drinking it and then we have a whole new set of addictive people. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I guess I really need to ask you to really support the Majority Ought to Pass as Amended Report. This is another back door attempt to make operating a business in the State of Maine more restrictive and more difficult for everybody that is in the retail sales. Right now we have very strict regulations regarding the selling of nicotine products, whether it is chewing tobacco, cigarettes, cigars or anything. They are kept under lock and key or behind counters in most retail establishments. Nicotine laced water is just a nicotine that is being pushed to the very, very vulnerable. It can be put in dispensing machines that are sitting on the sidewalk anywhere you can buy a soda. My biggest fear is that a mother innocently buys a bottle of this water without realizing the nicotine is in it. Nicotine is not colored so you are not going to see it in the water. Unless you really stop and read that label of the bottle that came out of the dispensing machine, you have your two-year old child with you. The two-year old wants a drink of water. Unknowing, you are giving that child right straight nicotine into their bloodstream. It is not regulated by the Food and Drug Administration. It is not needed in the State of Maine. We have some of the most pure drinking water bottled sold in this state. Let's stay with what is tried and tested and true and pure and

take another temptation away from the very people who aren't able to stand up here and say, no, you are going to hurt me. That is our very, very young children. I urge you to support the Majority Ought to Pass as Amended Report and let's do what is right for our young children.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 387

YEA - Adams, Andrews, Annis, Ash, Austin, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Ketterer, Koffman, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Millett, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Brannigan, Bryant-Deschenes, Churchill J, Dudley, Goodwin, Landry, McNeil, Pellon, Smith W, Sullivan.

Yes, 140; No, 0; Absent, 11; Excused, 0.

140 having voted in the affirmative and 0 voted in the negative, with 11 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-436)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, April 2, 2004.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Create a Nonresident Lobster and Crab Fishing License"

(H.P. 1454) (L.D. 1954)

Which was **TABLED** by Representative BULL of Freeport pending **REFERENCE.**

On motion of Representative BULL of Freeport, the Bill and all accompanying papers were **INDEFINITELY POSTPONED.** Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 796)

ORDERED, the House concurring, that when the Senate adjourns Thursday, April 1, 2004 it does so until Monday, April 5, 2004, at 10:00 in the morning and when the House adjourns Friday, April 2, 2004, it does so until Monday, April 5, 2004, at 9:00 in the morning.

Came from the Senate, **READ** and **PASSED. READ** and **PASSED** in concurrence.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-838)** on Bill "An Act To Require Surety Bonding by Payroll Processing Companies" (EMERGENCY)

(H.P. 1369) (L.D. 1843)

Signed:

Senators:

BROMLEY of Cumberland
SHOREY of Washington
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford
DUPREY of Medway
BEAUDETTE of Biddeford
O'BRIEN of Lewiston
PELLON of Machias
JACOBSEN of Waterboro
SMITH of Monmouth

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

Signed:

Representatives:

AUSTIN of Gray
BERUBE of Lisbon
ROGERS of Brewer

READ.

On motion of Representative SMITH of Monmouth, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-838)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, April 2, 2004.

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-840)** on Bill "An Act To Amend the Protection from Harassment Laws" (EMERGENCY)

(H.P. 1410) (L.D. 1906)

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot

Representatives:

NORBERT of Portland
BULL of Freeport
GERZOFKY of Brunswick
MILLS of Farmington
BENNETT of Caribou

SHERMAN of Hodgdon
BRYANT-DESCHENES of Turner
Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

SIMPSON of Auburn

CARR of Lincoln

DUPREY of Hampden

Representative LORING of the Penobscot Nation - of the House - supports the Minority **Ought Not to Pass** Report.

READ.

On motion of Representative NORBERT of Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-840)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, April 2, 2004.

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-835)** on Resolve, Regarding Legislative Review of Portions of Chapter 1: Procedures and Portions of Chapter 3: Maine Clean Election Act and Related Provisions, Major Substantive Rules of the Commission on Governmental Ethics and Election Practices (EMERGENCY) (H.P. 1392) (L.D. 1868)

Signed:

Senators:

LEMONT of York

MAYO of Sagadahoc

GAGNON of Kennebec

Representatives:

CLARK of Millinocket

HOTHAM of Dixfield

BROWN of South Berwick

MOORE of Standish

PATRICK of Rumford

BLANCHETTE of Bangor

CANAVAN of Waterville

JENNINGS of Leeds

LANDRY of Sanford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-836)** on same Resolve.

Signed:

Representative:

GLYNN of South Portland

READ.

On motion of Representative CLARK of Millinocket, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-835)** was **READ** by the Clerk and **ADOPTED**. The Resolve was assigned for **SECOND READING** Friday, April 2, 2004.

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 632) (L.D. 1700) Bill "An Act To Amend the Motor Vehicle Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-473)**

(S.P. 758) (L.D. 1922) Bill "An Act To Preserve Transportation Projects Statewide by Using Federal GARVEE Financing for the Waldo-Hancock Bridge Replacement" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-478)**

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Promote the Financial Security of Maine's Families and Children"

(H.P. 1152) (L.D. 1579)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774) AS AMENDED BY HOUSE AMENDMENT "A" (H-782) thereto in the House on March 23, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-774) AS AMENDED BY SENATE AMENDMENT "B" (S-476)** thereto in **NON-CONCURRENCE**.

Representative NORBERT of Portland moved that the House **RECEDE AND CONCUR**.

Representative DUPREY of Hampden **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative MILLS: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative MILLS: Mr. Speaker, Men and Women of the House. Can anyone explain the current status of this bill as it comes from the Senate?

The SPEAKER: The Representative from Cornville, Representative Mills has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Norbert.

Representative NORBERT: Mr. Speaker, Ladies and Gentlemen of the House. To the good Representative from Cornville, I would respond that the posture we are in would be to concur with an amendment that was placed on this bill by the Senate. It establishes a domestic partnership registry in the Office of Health Data within the Bureau of Health and the Department of Human Services. It has a mechanism for registering and terminating such a partnership as well. It repeals language in our prior amendment, the House Amendment, that

we sent this bill down to the Senate with, which relied on definitions of a domestic partner that were more stringent than the original bill. Now, the current bill reverts to the definition of domestic partner that is found in our insurance laws. Coupled with that, it is the registry. Those are the major changes.

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

Representative **DAIGLE**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. To anyone who may respond, as the bill is currently being proposed coming from the other body, does a person in order to become eligible for the permission of this bill must previously register with this future function of state government as the only mechanism by which things like inheritance rights and so forth are established?

The SPEAKER: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Norbert.

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. To the Representative from Arundel, the answer is yes. One would only qualify for these rights, inheritance, making medical decision, disposal of remains of a loved one, only if they have previously registered. In addition, they would have to satisfy the definition of domestic partner, which means they have lived together for 12 months. They share financial or expenses and the definition that is in the insurance code.

The SPEAKER: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I have had a brief period of time to look over this substantial amendment to the bill as it was placed on the bill in the Senate. Note, some rather interesting and in some cases amusing and in other instances disturbing elements in this amendment. I think to put it into context, it needs to be emphasized that this does not apply simply to two adults of the same sex that it applies to any two people that may be living together. I suspect that the bill has major implications for people who are trying to arrange their domestic affairs in some way that is short of the customary marital relationship. This is not an uncommon experience in practicing law. You see people that come in who have had earlier families who have been living together for a long period of time. Sometimes you see a situation where one of them is somewhat financially dependent on the other and sometimes there is a gross differential in age. I can't tell you how many times I have had people come in and say, I finally convinced him or her to put me on the deed. In other words, to take the farm or the homestead and convert it when the sole ownership of one partner and put it into joint tenancy. These are obviously people who do not want to get married, maybe because they have other family commitments out there or they don't want the permanency of that relationship for whatever reason. There are many who live together, especially of a certain age, and do not want to get married in order to disrupt relationships to other family members that they have. The solution of putting the farm in joint tenancy is not a bad one. One has to counsel the sole owner that this is a very solemn step. It is ineradicable. It means that the first person to die loses title to that property and the last of them to die wins the lottery and it cannot be broken. That title cannot be broken apart, frankly, without the signature of both spouses or both parties to the arrangement.

This situation says that if you have the party who is financially dependent who is living in an arrangement with perhaps an older partner that says, I would like to have you do something for me, if the financially superior party goes down and registers and then he or she can say that they have taken care of it. I went down and took advantage of this new law. I went down to the Department of Health in Augusta, lord knows why it is the Department of Health, and I filed a registration. Don't worry about it. You are protected. We are now registered. We are not married. We are not going steady. We are registered.

My concern is that that will yield a certain amount of satisfaction or solace to the financially dependent partner in this relationship who will accept it, perhaps, as a substitute for marriage or a substitute for joint ownership of the farm or a substitute for some other more permanent less eradicable, more solid relationship. The essence of this amendment, if anybody should look at very carefully, is not the establishment of the relationship through registration. If you are an attorney, you look immediately to the end of the statute to find out how this relationship is to be dissolved. That is where the action is, folks. Marriage is a big step, precisely because it is tough to get out of it. We have made it tough for thousands of years.

This relationship is easy to form and it is even easier to dissolve. If you have a spat on a Friday, you can mail off your letter and deregister and all of the reliance interests that may have been created by this relationship are dissolved by either party. Does it remind you of that custom in the eastern part of the world where the husband has power to shake his finger at the spouse and say, I divorce you? If he says it twice more, then it is done. There, what kind of reliance expectations are we creating in financially dependent members of these partnerships that so quickly and so easily be dissolved by deregistering? Can you picture the situation where a tentative couple, the guy buys the ring, there is wine and a quiet dinner. She thinks it is marriage that is being proposed. He says, not so fast. I was thinking about registration first, a little more tentative.

This is sort of a legalization of going steady. There is an interesting twist to this legal posture. In order to qualify for this legal status, you must certify on the form that you have lived in sin for at least a year. That is a requirement now. It is no longer saving ourselves for the marriage. It is living in a relationship that entitles you to do the registration. How backward for most of our social thinking.

It has been my impression all along that there needs to be some simple things done to make it possible for people living in close relationships to have preference in the probate court as guardians when one of them becomes mentally incompetent or disabled. I think there should be some small things done to make it possible for a court to give preference to a long-term domestic partner of either sex, frankly. To be given preference in certain probate proceedings, of a personal nature, having to do with funeral preferences, disposition of the body. The person who has preference for being a conservator or a guardian of that person, I think there is some merit. I think there is a small problem and I think there is some merit to designing an equally small solution. I don't think this bill is it. I think this bill is a series of complex solutions looking for a hard problem and not finding it. Most of the hard problems have to be dealt with in a hardnosed fashion. Are you going to own property in a joint tenancy? It only costs about \$35 or \$40 to make that deed. Once you make it, you can't back out of it. It is a commitment, a financial commitment of the first order. It is the kind of commitment if you mean it, you ought to make it, not with the idea that you can withdraw it by certified mail.

I think that there is a report floating around that I won't talk about that would answer most of the questions and concerns that I have. It is not this bill. It is not this report. It is another report on this bill. I think we could take action in this Legislature to ameliorate this situation, to bring relief to those who have brought some of these smaller problems to us. This is not it. This has significant consequences for all forms of domestic relations. I will not be voting to Recede and Concur. Thank you.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. My friend from Cornville, Representative Mills, is just one of many people that we worked with to find consensus and common ground on this bill. I think it is a great testament to the sponsor of the bill, Representative Dudley, and to many of you in this chamber who have come to us with your concerns and we have worked with you and tried to respond to your concerns. There is no pleasing everyone. I think we have all learned that in our time here in Augusta. I think for many, let's be honest, they will never be able to support this concept. It is a philosophical difference. I respect that. I understand that. For others, it seems it has been one attempt after another to change the wording of the bill, to change the goal, to have us do work and then report back only to hear that they have another concern. I want to remind you that this is a far more modest proposal, I think, that was described by the Representative from Cornville. This bill does only in those cases when a person does not have a will or does not have some other legal document describing how they want to leave their possessions or how their body should be disposed of or who will make medical decisions for them. It is not marriage.

The Representative from Cornville had a witty description of a possible dinner proposal. It sounds like a good New Yorker cartoon to me. It would be funny, if there weren't some very serious and sad things going on daily that this committee has tried to address with this bill. The fact that the committee heard testimony from several people about the terrible things that can happen when you are in a loving relationship and your loved one dies unexpectedly and because the state does not allow you to be married, you find yourself without some basic rights. This has happened. People getting thrown out of their homes and not being able to attend a loved one's funeral. These are serious and sad realities that are going on here. Again, it is not marriage. We did some research and discovered that under all our various federal and state laws there are more than 1,400 protections, rights and benefits that are conveyed to married couples under state and federal law. I think we would all be surprised to learn that. This is really dealing with four such rights, not the whole kit and caboodle. Again, they are rights that people under the law are told you cannot have these rights and then on the other hand they are now told that you shouldn't have these rights.

Again, the committee heard concerns about clarifying who is involved in such a committed relationship. People told us a registry would be a convenient and clear way of identifying this. The probate bar told us the same thing. A registry would really fix some of the concerns that we heard. We have included a registry. Now we hear from some that is not good enough. People said they wanted clear evidence that there is a commitment, not just two people rooming together. We worked on incorporating the definition from the insurance code. As I said, requiring an affirmative step of registry and a process for dissolution as well. So, I submit to you that this bill is even better than the last one you voted for. For those you who had concerns, this bill is even better than the last one you voted for.

For those of you had concerns about some of the ramifications, the legal ramifications, I think the registry answers that. I think it is a clear and good way of showing its commitment. In a world that is not perfect, in a world that is evolving, but that recognizes that people who are not living in traditional relationships, they are contributing members of this society and they have needs and they have rights that, frankly, need to be recognized. I know that many of you have concerns with this bill.

I know there are many of you who are looking for some improvements. We have those improvements and I look forward to seeing your support of this report.

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

Representative **COURTNEY**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who can answer this, is it possible that you could register as a domestic partner while you are still married? If so, what happens?

The SPEAKER: The Representative from Sanford, Representative Courtney has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Norbert.

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. In response to my friend, the good Representative from Sanford, Representative Courtney, the answer is no. The bill makes clear that a person cannot be married to another. They cannot be in a domestic partnership with another. That language can be found in the amendment on your desk and the original bill as well. That was always the point of the bill.

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

Representative **CARR**: Mr. Speaker, Ladies and Gentlemen of the House. As you might guess, there was a considerable amount of time spent in the Judiciary Committee discussing this issue. When it came out of committee, it came out without a Majority Report. It actually came out with three reports, 6 to 6 to 1. You can see that this was divided. One of the things at the time that I thought that we had agreed upon though was that having a registry was not necessarily a good idea. I see that with the amendment that we have that.

I have several concerns. I will touch on couple. This establishes a new function for the Department of Human Services, which has jurisdiction over many different issues. We are familiar with all of those. I know that in the fiscal note it says that they can absorb the extra work, but I think that most of us are aware that this is how these things begin and eventually we end up with more people having to spend their time doing the function.

I am also concerned because I have received at least two letters from the Roman Catholic Diocese of Portland that have shared with us, the members of the Judiciary Committee, many of their concerns, which I think they have been able to articulate very well. I am not going to go into those because it would take a long time. I will say this, I don't see anything in this bill or the amendment that couldn't be taken care of by simply going to your local law firm and having a will made out. That would take care of all of these issues that has generated all of this paperwork and made a much more complicated issue than what a will would do. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. I respectfully disagree with my good Chair, the good Representative from Portland, Representative Norbert, on this bill. I have expressed my disagreement on this bill to a number of people. This bill started out as a domestic registry, a domestic partnership registry provision, which we rejected in the committee, in part because it was not easy to tackle to whole question of how you dissolve a domestic partnership, however you may set it up.

Maine law has a whole chapter on partnerships and associations. For good reason there are a number of sections in Maine on how you dissolve a partnership in general, dealing with assets and liabilities and responsibilities of the parties. It was not a simple thing to simply tack on an amendment in the Senate and simply say we will set up a registry and then we will also allow for termination by somebody giving notice, filing a piece of paper with the Secretary of State's Office. There are a bundle of rights and responsibilities, property issues and other issues and reliance issues as has been pointed out before that developed during the course of any kind of partnership, relationship, whether it is a social relationship, a business relationship or other relationship. Those cannot be easily disentangled simply by waving a wand or filing a piece of paper. The difficulty in drafting such a provision is pointed out by the fact that this amendment says, for instance, within 90 days of no longer meeting the criteria, at least one of the former partners shall, mandatory, file by certified mail a notice of termination with the office.

One of the criteria that might require somebody to file a notice of termination is that one of the parties has fallen ill and become incompetent. That is one of the definitional criteria. Both parties have to be competent. The whole purpose of this legislation to begin with was to allow people in domestic relationships to become guardians for one or the other if one falls ill or becomes incompetent. There are serious issues with drafting a piece of legislation like this and a lot of unintended consequences.

My good friend from Portland, Representative Norbert, has pointed out that this bill has become an issue for a number of groups. He states that there are a number of people who cannot have rights that are given to other people under the law. He points out that there are 1,400 state and federal benefits given to married people that are not given to domestic partners and that they cannot have these rights. This bill, a good portion of it, is devoted to inheritance rights. There is nothing in the law currently that does not allow any of us, gay or straight or any of us in this community and in this state, to provide assets to another person, transfer assets to another person upon our death. There are some very simple ways to do that, setting up a trust, setting up a simple will, designating a beneficiary on your life insurance policy and joint tenancy of property, whereby the other party automatically gains title to the whole piece of property upon your death without ever going into probate court. I have heard from people on the committee when we heard this bill that it is an expensive thing to go to a lawyer and draft a will. Let me assure you that it is not an expensive thing to draft a simple will. In fact, our probate court as flexible and liberal and generous as it is, allows great deference to handwritten wills. If for some reason you can't get to a lawyer's office, you can handwrite a will and it will be given great deference by the probate court.

I don't think this is about providing rights to certain people who don't have them now when it comes to intestacy rights. The ironic result of this bill in that regard is if you form a domestic

partnership and you have a preexisting will that does not involve the partner or you write a will during your partnership that excludes your partner for whatever reason, perhaps not through ill will, but through financial estate planning, but if you deliberately exclude your partner, that will be upheld, even if you have registered as a partnership. That gives the other partner no particular rights to inherit if you already have a will or if you sign a will during the partnership. I don't think this is about the probate code.

We heard a lot of very moving testimony at the hearing, particularly about when people are becoming incompetent, fall ill, and the other person who has cared for this person and been part of a loving relationship for many, many years, is not allowed by the probate court to help take care of that loved one, to help manage their finances or tragically when they die cannot even set up a funeral, make the funeral arrangements or take care of the remains of the deceased loved one. There are ways to do that much simpler, much easier than setting up a domestic partnership registry. I ask you to join with me in voting against the motion to Recede and Concur and allow us to consider other simpler alternatives that do not complicate the law and complicate relationships and the methods of dissolving them. If we want to discuss, at some point, a whole panoply of changes to our laws, it might accommodate relationships that are not accommodated in our laws right now. We should do that, but we should do that in a comprehensive and thorough manner, not piece meal in the manner that I think uses the probate code to cause some unintended consequences. I would ask you to join with me in voting no to Recede and Concur.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. I want to address some of the points that have been raised so far in debate. The Representative from Cornville, it seems to me to be suggesting that this bill doesn't go far enough. If somebody is pledging a commitment, then that commitment ought to have greater protections. You know what? I think he is absolutely right. We ought to allow same-sex marriage in the State of Maine. I agree with Representative Mills. We ought to do that. I don't know if, we as a body and certainly the other body, are prepared to have that debate quite yet. There is no doubt that it is coming at some point in the future as is happening everywhere in the country. We are not ready for that. That is not the debate we are having here today. We are talking about a limited set of protections for what are today's families. Like it or not, approve of it or not, there are many families in this state today that are same-sex couples that have children or opposite sex couples who also have children who cannot, because of the law or in instances, choose not to be married. What we are offering is a simple way, the Representative from Cornville is right, for them to ensure protection for the other adult in the case that one should die unexpectedly without a will.

The Representative from Lincoln, Representative Carr, raised a couple of points. The first being questions about the competence, I think, of the Department of Human Services to manage this new registry. I would simply point out that the bureau within the Department of Human Services that would be responsible for this registry is very ably run by the sister of the Representative from Cornville and the Representative from Farmington, Dora Mills. I don't know of any complaints in recent discussions of the fiscal management of the Department of Human Services that have implicated the Bureau of Health. Quite the contrary, I think the Bureau of Health is quite capably and remarkably well run by Dora Mills.

Further, another point by Representative Carr, he spoke of how the Bureau of Health would be responsible for absorbing this cost within existing resources. I think fairly calling into question the way that we have been forced to budget over recent years. Do they really have the resources to accomplish the task that we are asking them to accomplish? I would say that the fiscal note goes a little bit further than Representative Carr suggested. It does say existing resources, but it also adds the word fees. There are fees that follow or that accrue to anybody seeking this benefit, the benefit of being able to join the registry, not only existing resources, but the fees that are set by the Bureau of Health in order to cover these costs will go towards covering these costs.

The Representative from Farmington, the other Representative Mills, raised the question of since the definition of domestic partner requires that the partners be mentally competent and since we are also envisioning a situation where one of the partners might become mentally incompetent and trying to protect this couple in that circumstance, I would add that the amended language and the language in the bill say that to form a domestic partnership you must be mentally competent, which is as it should be. It does not say that the domestic partnership is invalid if mental incompetence follows the formation of that domestic partnership.

We have heard a lot of suggestions of the stories that we heard at the public hearing. A public hearing in which I might add there was no testimony in opposition. We heard stories of a woman who had been in a relationship with her partner for 12 years. On the death of her partner, her partner's family stepped in, took over the home, took over assets, banned her from being able to attend the funeral. We heard from a member of the other body who was formally a funeral director and he told us experiences in his professional career of families not allowing long-time partners to have a say in funeral arrangements, the disposition of the remains or in some instances, not being able to attend the funeral. Having families that disapprove of the relationship stepping in and saying you may not attend the funeral of that person you love and shared your life with all these years. That is the situation that we are trying to correct with this bill. We are allowing two adults to make a decision, a very limited decision, about protections that they want to have and they want their families to have in the event that the other one dies without their having made full arrangements.

There are approximately 50 percent of couples in this country, according to an ABC News poll from last summer, who do not have wills. I am sure there are a variety of reason why they have chosen not to have wills and perhaps why they haven't thought that they need to have a will. The truth is, I am married. My wife and I do not have a will. If I die unexpectedly, though we don't have a will, she is protected. The little that I have that is mine, a major portion of which will be hers. She is protected. Somebody said to me in private discussions on this will, the state essentially writes a will automatically for those of us who are married. All we are asking for is some protection for those couples who the law may prohibit from being married or from those who choose not to engage in marriage. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House. I really want to vote for this bill, but I think this amendment brings up more questions than it answers. The Representative from Portland, Representative Norbert, said that this is about people who can't marry. This bill also covers heterosexuals also. Those people can marry in this state. It

covers heterosexuals and homosexuals, which is fine, but then there is the part about fees. The reason people say we can't have a will is because we can't afford the will, but yet we are willing to pay the fee to register. That fee, we don't know what it is because it is not defined in the amendment so it may be \$100, which is about the cost of a will. If you are willing to pay the fee, but you are not willing to get a will, I don't understand why you are willing to do one and not the other. It is not defined how much the fee is. I assume the less people register, the higher the fee to cover the fixed cost of having someone do this registry.

The other issue I have with this is it says you must sign a letter that says you are mentally competent and have it notarized. Who determines mental competence? You don't have to do that when you get married. I mean some of us may look back on our lives and go . . . , but the fact of the matter is, you don't have to sign a letter that says it. You don't go to a physician who determines you mental competence, but you have to have a notary allege that when you sign your signature here, you said you were mentally competent. All a notary's power is, is that you are the person that signed in front of them. You are giving them more power than is under current notary laws. That is the problems that you are running into with this amendment.

I think there is a simple solution to this. I think the original bill, the way it was structured, only needed another small step to get me to want to vote for it. This amendment, to me, puts too many questions in my mind and I hope that we could maybe make some maneuvers here, such as the motion to Recede. Mr. Speaker, I make the motion to Recede.

Representative BRUNO of Raymond moved that the House **RECEDE**.

Representative RICHARDSON of Brunswick **REQUESTED** a roll call on the motion to **RECEDE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 388

YEA - Andrews, Annis, Austin, Berry, Bierman, Bowen, Bowles, Breault, Browne W, Bruno, Campbell, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dunlap, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Ledwin, Lessard, Lewin, Lundeen, Maietta, McKenney, Millett, Mills J, Mills S, Moore, Murphy, Muse, Nutting, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Young.

NAY - Adams, Ash, Beaudette, Blanchette, Bliss, Brannigan, Brown R, Bull, Canavan, Cowger, Craven, Cummings, Dudley, Dugay, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Kane, Ketterer, Koffman, Lemoine, Lerman, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKee, McLaughlin, Moody, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Smith N, Sukeforth, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

ABSENT - Barstow, Bennett, Berube, Bryant-Deschenes, Bunker, Churchill J, Duprey G, Goodwin, Landry, McNeil, Pellon, Perry A, Smith W, Sullivan, Tardy, Vaughan.

Yes, 65; No, 70; Absent, 16; Excused, 0.

65 having voted in the affirmative and 70 voted in the negative, with 16 being absent, and accordingly the motion to **RECEDE FAILED**.

On motion of Representative RICHARDSON of Brunswick, **TABLED** pending the motion of Representative NORBERT of Portland to **RECEDE AND CONCUR** and later today assigned. (Roll Call Ordered)

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-470)** on Bill "An Act To Amend the Penalty Provisions and Reporting Deadlines of the Campaign Reports and Finances Laws"

(S.P. 661) (L.D. 1728)

Signed:

Senators:

GAGNON of Kennebec
MAYO of Sagadahoc
LEMONT of York

Representatives:

CLARK of Millinocket
PATRICK of Rumford
BLANCHETTE of Bangor
CANAVAN of Waterville
JENNINGS of Leeds
HOTHAM of Dixfield
GLYNN of South Portland
BROWN of South Berwick
MOORE of Standish

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-471)** on same Bill.

Signed:

Representative:

LANDRY of Sanford

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-470)**.

READ.

On motion of Representative CLARK of Millinocket, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-470)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, April 2, 2004.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-823) - Committee on TAXATION on Bill "An Act To Clarify Property Eligible for Reimbursement of Property Taxes under the Business Equipment Tax Reimbursement Program"

(H.P. 1326) (L.D. 1804)

Which was **TABLED** by Representative LEMOINE of Old Orchard Beach pending **ACCEPTANCE** of the Committee Report.

Subsequently, the Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-823)** was **READ** by the Clerk.

Representative LEMOINE of Old Orchard Beach **PRESENTED House Amendment "A" (H-846) to Committee Amendment "A" (H-823)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. This is a corrected fiscal note. Thank you.

House Amendment "A" (H-846) to Committee Amendment "A" (H-823) was **ADOPTED**.

Committee Amendment "A" (H-823) as Amended by House Amendment "A" (H-846) thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Friday, April 2, 2004.

The **SPEAKER**: The Chair recognizes the Representative from Old Town, Representative Dunlap who wishes to address the House on the record.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. Yesterday, March 31st, the Joint Standing Committee on Inland Fisheries and Wildlife conducted a public hearing on an initiated bill regarding bear hunting practices. Prior to the public hearing, there was a press release that was sent out to the media regarding the activities of the Fish and Wildlife Committee to illustrate why these groups, the proponents of the initiated bill, were boycotting the public hearing.

In their press release they say that the Fish and Wildlife Committee has been bought and sold on this issue by cronyism and political payoffs from the Sportsmen's Alliance of Maine. They further state that the purpose of their press conference is to underscore the political corruption that has allowed the unsportsmanlike like practice of baiting, hounding and trapping to tarnish the image of Maine hunters. Further, they say that the Inland Fisheries and Wildlife Committee members and the opponents of the referendum are personally and ideologically connected on wildlife issues and that association means that their positions will not be seriously considered. A handful of legislators in opposition to this referendum, particularly the Sportsmen's Alliance of Maine, walk in lock step on wildlife issues. We realize the good old boy network is alive and well in the connection between the Inland Fisheries and Wildlife Committee, the Department of Inland Fisheries and Wildlife, the Sportsmen's Alliance of Maine, etc., etc., etc.

I have been privileged for six years to be a member of this Legislature and to be chair of the Inland Fisheries and Wildlife Committee. I am privileged because I have served with some of the most capable and honorable members that the people of the State of Maine have elected to the Legislature. They are men and women of profound integrity. I take this as a personal affront to that integrity and my leadership of the committee. I would challenge the authors of these scurrilous allegations to innumerate them and bring them before the Attorney General and to the standing committees of the House and Senate on Ethics. I defy them to provide facts that support these allegations.

The author of these allegations is well known to members of this body. I don't think I speak out of school to say that they never hesitate to abandon the high road in these types of debates. It is not a credit to the media that they reported these allegations at all, let alone without any interview of members of the legislative committee having oversight of these jurisdictions respond to these allegations.

This is going to be a long and very, very ugly debate. I wish members of this Legislature would brace themselves for even worse yet to come. I know that we are equal to it. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Frenchville, Representative Paradis who wishes to address the House on the record.

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. In reference to roll call number 336 on LD 1261, if I had been present, I would have voted yea. Also, in reference to roll call number 337 on HP 1439, if I had been present, I would also have voted yea.

On motion of Representative KANE of Saco, the House adjourned at 12:46 p.m., until 9:00 a.m., Friday, April 2, 2004.