

MAINE STATE LEGISLATURE

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

VOLUME I

FIRST REGULAR SESSION

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

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
7th Legislative Day
Friday, January 11, 1991

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

Prayer by Reverend Trueman Bray, Penney Memorial United Baptist Church, Augusta.

The Journal of Thursday, January 10, 1991, was read and approved.

SENATE PAPERS

Bill "An Act to Amend the Board of Counseling Professionals Licensure Laws" (S.P. 67) (L.D. 120)

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

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE
SUPREME JUDICIAL COURT
142 FEDERAL STREET
PORTLAND, ME 04112

January 9, 1991

The Honorable Charles P. Pray
President of the Senate
State House
Augusta, ME 04333

The Honorable John L. Martin
Speaker of the House
State House
Augusta, ME 04333

Dear Mr. President and Mr. Speaker:

I very much appreciate your invitation to deliver the annual report from the Judiciary to the Joint Convention of the Legislature on Thursday, January 24, 1991, at 10:00 a.m. I will be there.

With all best wishes.

Sincerely,

s/Vincent L. McKusick

Was read and ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills were received and, upon the recommendation of the Committee on Reference of

Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Marine Resources

Bill "An Act to Prohibit the Sales and Service of Propeller Spurs" (H.P. 87) (L.D. 122) (Presented by Representative CONSTANTINE of Bar Harbor) (Cosponsored by Representative CARROLL of Southwest Harbor)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Establish a Fund to Assist Elderly Victims of Fires" (H.P. 88) (L.D. 123) (Presented by Representative DiPIETRO of South Portland) (Cosponsored by Representative LAWRENCE of Kittery and Representative PLOURDE of Biddeford)

Ordered Printed.
Sent up for Concurrence.

(At Ease)

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

COMMUNICATIONS

The following Communication:

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

January 11, 1991

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 House Rule 1, I have today rescinded the appointment of Rep. Joseph W. Mayo of Thomaston to the House Committee on Elections and appointed Rep. George A. Townsend of Eastport to that committee.

Sincerely,

s/John L. Martin
Speaker of the House

Was read and ordered placed on file.

The following item appearing on Supplement No. 2

was taken up out of order by unanimous consent:

Report of Committee on Elections
Election in District 90

ORDERS

On Motion of Representative GWADOSKY of Fairfield, the following Joint Order: (H.P. 89)

Ordered, the Senate concurring, that Joint Rule 28 be amended to read:

28. Cosponsorship. A presenter of legislation may authorize up to three additional members of either House to cosponsor a bill or resolve/~~Orders and orders~~, resolutions and memorials may be cosponsored in the same manner ~~as bills and resolutions~~. For duplicate or closely-related bills or resolves, the Legislative Council may establish a policy for the number of cosponsors permitted. A bill, resolve, order, resolution or memorial having cosponsors shall originate in the House of the presenter.

Was read.

The SPEAKER The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative Gwadosky: Mr. Speaker, Ladies and Gentlemen of the House: I think perhaps in both of our caucuses that this particular suggestion for a change in our rules has been discussed. As many of you know, we have some 2400 bills that have been filed and that represents about a 20 percent increase over the amount of bills that were filed in the First Regular Session two years ago. Of that amount, the Revisor's Office indicated to us that about 600 bills appear to be duplicates or closely related bills. In an attempt to reduce the drafting of so many closely related items or duplicates, the Legislative Council has and is pursuing a policy to help us begin to weed out some of those and save some precious dollars in time and energy to produce those things individually.

This proposed Joint Rule would allow that in those instances where there are duplicates or closely related bills it would give the Council authority to expand the existing cosponsorship rule to more than three members so that it would, hopefully, accomplish the opportunity to allow as many as possible to get on a particular bill when there are duplicates and, in the final analysis, we are attempting to save some money and cut down the number of bills that have been submitted so far.

I would certainly encourage your favorable vote on the passage of this bill.

The SPEAKER: The pending question before the House is passage of Joint Order (H.P. 89). This requires a two-thirds vote of the members present and voting. Those in favor will vote yes; those opposed will vote no.

111 having voted in the affirmative and none in the negative, the Joint Order was passed and sent up for concurrence.

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

The following item:

The Committee on Elections to which was referred: (a) the returns of the votes cast for Representative to the Legislature; and (b) the Report of the Commission on Governmental Ethics and Election Practices on the Election for House District 90; (c) the exhibits presented to the Commission; and (d) the Petition of Daniel Hickey; have had the same under consideration and ask leave to report that:

The Committee met and reviewed the above documents on January 11, 1991. Based on that review the Committee reports the following facts:

Daniel Hickey and Sumner Lipman were candidates for election as Representative from House District 90 in the November 6, 1990 election. After that election, a recount, hearings before the Commission, a review of the Commission's report and findings, and a review of the ballots and exhibits, the Committee finds as follows:

1. That House District 90 consists of parts, but not all, of the City of Augusta; and two other House districts also are elected from Augusta.

2. That the official return of the election from the City of Augusta is incorrect in that the voting checklists incorrectly identified the House district in which some residents were qualified to vote, and as a result of those errors at least 23 persons were given ballots for the wrong House district, of which at least 14 persons had registered immediately prior to this election.

3. That because of election procedures, voters were delayed in excess of one and one-half hours in attempting to vote, thus causing several voters to abandon attempts to vote.

4. That incorrect procedures were used in allowing challenges to absentee ballots.

5. That there were numerous other procedural errors in the conduct of the election.

6. That the official return of Representative District 90 indicates that Sumner Lipman defeated Daniel Hickey by 13 votes.

7. That after the Commission on Governmental Ethics and Election Practices had reviewed all disputes and challenges of ballots, and had ruled on those ballots, primarily by unanimous vote of all members, the Commission found that the final ballot tally placed Sumner Lipman with a 6 vote lead over Daniel Hickey.

Based on its review of the facts, the Commission on Governmental Ethics and Election Practices found that the errors in voter registration and voting "irregularities," were of such magnitude as to render the election invalid. In their report the Commission noted:

"based upon the apparent vote margin between the candidates that was less than the number of voters who apparently voted in the wrong district, delays in

voting, the irregularities in the absentee ballot voting, and the irregularities in the counting of absentee ballots, that, pursuant to 21- A.M.R.S.A. s 741 (Supp. 1990), and based upon the Commission's decision in In re Appeal of William J. Hennessey, dated January 4, 1977, (a) the Commission finds that the irregularities in the election were of such a nature and such magnitude as to render the election invalid, and (b) the Commission finds that the rightful purpose of the election process is an expression of the voters' will and public faith and confidence will best be served by holding a special election to determine who shall be Representatives for legislative District 90 to the 114th (sic) Maine Legislature, and accordingly, the Commission recommends that a new election be held."

Accordingly the Commission recommended the holding of a special election to determine representation of House District 90.

Therefore the Committee recommends (1) that the findings and recommendations of the Commission on Governmental Ethics and Election Practices should be followed by the House.

Therefore, the Committee recommends (2) that the House declare that there is a vacancy in the representation in the House of District 90, because irregularities in election procedures in Augusta which prevented many voters from expressing their choice in the District 90 election.

Further, the Committee recommends (3) that the name of Sumner Lipman, presently temporarily seated as the representative of House District 90, be stricken from the rolls.

Further, the Committee recommends (4) that the Secretary of State and appropriate municipal officials be promptly advised of House action on the report so that, if a vacancy is declared by the House, a new election can be held as expeditiously as possible.

Vote of the members on all four recommendations

In favor: Rep. Paul F. Jacques of Waterville, Rep. Lorraine N. Chonko of Topsham, Rep. Roger M. Pouliot of Lewiston, Rep. Edward A. McHenry of Madawaska, and Rep. George A. Townsend of Eastport

Against: Rep. Paul Parent of Benton, and Rep. Donald A. Strout of Corinth

Dated: January 11, 1991.

Committee on Elections

Signed:

s/Paul Jacques
Chairman

Was read and ordered placed on file.

The following item appearing on Supplement No. 4 was taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 75)

ORDERED, the House concurring, that a Joint Select Committee on Corrections be established. The select committee shall consist of 3 members from the Senate, to be appointed by the President of the Senate, and 10 members from the House of Representatives, to be appointed by the Speaker of the House of Representatives. The select committee shall review all legislation relating to corrections and report its findings, recommendations and any appropriate legislation to the Legislature.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The following item appearing on Supplement No. 5 was taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Allow the Systems Assessment Commission to Extend Reporting Deadlines" (EMERGENCY) (S.P. 70) (L.D. 126)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

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

Under suspension of the rules and without reference to a Committee, the bill was read twice.

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

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

ORDERS

On motion of Representative JACQUES of Waterville, the following Order:

Ordered, that the House of Representatives declares a vacancy to exist in the representation in the House of District 90; and be it further

Ordered, that the name of Sumner H. Lipman, presently temporarily seated as the representative of District 90, be stricken from the rolls; and be it further

Ordered, that a copy of this Order duly certified by the Clerk of the House of Representatives be sent to the Governor, the Secretary of State and the City Council of the City of Augusta.

Was read.

Representative Jacques of Waterville requested a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I rise on this occasion because it saddens me to think that this issue is now before this body in its final form.

We have, as I have followed the process since the first day that this session was called together, been faced with the question of whether Sumner Lipman should be a member of this body. Many of us have faced hard fought, close elections and, when the results were finally counted, when the people had voted, we accepted their results and allowed the duly elected member to come and remain as a member of this body. We are, with this action, taking a serious step away from the process that is a part of our American tradition, a part of what we stand for.

I wish each member of this body would have an opportunity to hear the words that the good Representative from Benton, Representative Parent, expressed to the Commission this morning who, unfortunately, is ill in another room in this body right now. He is, to the best of my knowledge, the only member of this body who has a Master's Degree in Political Science and who has spent a lifetime as a teacher, an observer, and a participant in the political process and who described, within an animation that is not common to this quiet legislator, the tradition in America for allowing the people's choice to prevail.

It seems to me that this is the worst kind of activity for us as an institution (and I hear that word frequently in the halls) to be associated with. To suggest to the people and the individuals who conduct elections in the best way they can, given the rules and the laws we give them, to conduct an election, to have an apparent winner in the presence of what both parties agree of no fraud, and then for this as a body to take what has the appearance of being political action. The Commission that made the ruling was a Commission, not equally divided between the two parties, it was a Commission that voted on party lines, Democrat versus Republican, to make recommendations.

Today, we had a committee that voted on party lines to place the recommendations that we have received by our earlier actions. I cannot see how the members of this body (as a whole) would want to be associated with an activity that unseats a member of this body along party lines, if this is an institution that we hold sacred. I guess one of the things that is most troubling to me is that from the beginning, from the day that the Assistant Republican Leader and I were called to the Speaker's Office, from the day that an editorial that I will read to you appeared in the local newspaper, that this has taken on a party line, a political aura. We fight

hard fights in the political process, we all expect that and we all accept that. I think that's the way Maine people want to see elections conducted but when the fight is over and the ballots are counted, then the members of this body need to be seated, they need to be allowed to continue the work. Yes, there was a discrepancy in the lines on the district that is being discussed, a discrepancy that has existed since the time that I and several members of this body were elected to this House, since the time of the last reapportionment. This activity that we undertake is not a reflection of any ill will against a former Representative of this body but the people have chosen someone else, the people by use of the ballot have elected a new Representative from Augusta.

I read into the Record an editorial that, in my mind, succinctly describes the cloud over this whole action and it is dated, I note, December 22nd, before the Commission had met, before the House Committee had met, titled "A Bit Overeager." It says, "Representative Joseph Mayo, the House Democrat Whip, is never shy with a quotable line. This time he seems to have allowed his partisan instincts to get away from him." Commenting on Sumner Lipman's (R-Augusta) objections to a new Department of Motor Vehicle building on Hospital Street, Mayo said "that Lipman is trying to shore himself up for the second election he is going to face. The recount of the election between Lipman and Democrat, Dan Hickey, has been submitted to the Election Commission for its findings. The Commission has not even seen evidence. Democrats will submit to support their claim to the second election as needed. Lipman was the apparent winner, November 6th. Saying Lipman is going to face a new election sounds a bit premature. Does Mayo know something that the rest of us don't? Once the Election Commission makes its finding, the House, overwhelmingly controlled by the Democrats, will make the final decision. Mayo should remember that the House ruling must not only be fair but must be seen by all to be fair. Prejudging does not improve the chances of that happening." It must not only be fair, it must be seen by all to be fair. The actions by members of this House up to this point cannot possibly be seen by all to be fair. I cannot imagine why you would want to be associated with an activity that has such a partisan appearance.

The precedent for us to challenge close elections when we do not agree with the results takes a dangerous new twist with this action.

It is a great disappointment to me personally to be here today facing an issue, facing the prospect that so many of you that I have so much respect for would vote in a partisan manner against the wishes of the people of Augusta and that would force a new election.

I urge you to vote against the motion before us.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: Now that we have talked for the press, let's talk about responsibility and our responsibility that was involved. I know that it is easy, convenient, probably flashy, to paint this in the usual manner of a partisan attempt to steal an election from someone. I took my charge on this committee very seriously and I have nothing but respect and deep affection for all members of the House Committee on Elections and, most of all, their

integrity.

It has never been against the law, morally or legally, in my understanding, to have an honest disagreement. The disagreement here is a simple one, the Commission went through the affidavits, the exhibits, and the testimony for two days on the discrepancies, inaccuracies, and occurrences in this last election. Although many can be passed off as occurrences that occur at every election in many districts across the state, the simple fact of the matter is that there was a six vote margin between the two candidates and there was somewhere over 20 wrong ballots given for the district that they were suppose to vote in. There is clearly a cloud over this election and, no matter what we do here today, there will always be somewhat of a cloud over this election. The fortunate thing is that the cloud can, indeed, be removed.

Both sides ran a fine campaign, as the Commission heard, neither candidate has anything to be ashamed of, as the Commission and our committee heard. The simple fact of the matter is that we will never know how those 20 or so ballots that ended up in the wrong hands would have voted. We can speculate, we can call the Lottery Commission and ask them to run probability and odds, but we will never know what the intentions of the voters were. In other close elections and we have had many, this problem during my service in this body has never been brought up. We did have a case in 1977, which was the year before I was elected to this body, that had much the same circumstances and much the same actions were taken by the Commission. The House Committee on Elections met and unanimously supported the call for a new election and it went under the hammer in this body. The numbers were greater but the problem was the same. I have looked at the record, no one accused anyone then of being partisan or that we should be ashamed for doing what we believed was right. I have never been told that I should be ashamed for casting my vote on the floor of this House for what I believe is right, even when I have lost.

The bottom line of the majority opinion was that, if one voter's right to choose her or his Representative was, indeed, flawed, through no fault of their own, no fault of either candidate, really no fault of people working at the polls, but the fact was that their right to choose their elected Representative was not given to them. If there is only one, you should be concerned, but when there are enough that the numbers clearly (even by someone without a Master's Degree in Mathematics) show might have changed the outcome of that final election, we felt a new election was warranted. It doesn't have to be a long election, both candidates are well-known, they have laid out their platform, they have campaigned, we would envision a quick call for a new election and, hopefully, this one cloud that is remaining over this whole situation, can be absolved.

I don't have a Master's Degree in History but I remember very well my history teacher telling me that one vote does make a difference and encouraging us that when we became 18 years old to exercise that vote. I am sure every member of this body has used that when speaking to groups, especially young people, or a group up until now that has been disfranchised, that your vote does make a difference. An example I used this morning in the committee was that in the Democratic caucus for candidates for Attorney General, one vote did make

the difference, one vote was the determining factor on who our candidate would be. If you abide by that fact that the person's right and sanctity to have that right to vote for his or her Representative, then clearly in this case, there were at least 20 people who never really had the chance to exercise that right.

It is convenient to say that this is political but I want to assure you that there are still people in elected office today who are honest, have integrity, and want to do what is right. I am very confident that should the House decide to go along with this Order that the two candidates involved will, once again, have the opportunity to go out and campaign. Hopefully, with only one election and one issue, some of the technical problems such as five people not being checked off when they came to vote will not occur. A large number of people were leaving because they weren't allowed the opportunity to use a paper ballot which is clearly something you are allowed to do to expedite matters — the correct number of voting booths, which I understand was a problem, it is not something that we can say will change the direct outcome of this election, but all of these issues and their irregularities can be addressed. Clearly under that scenario, the winner of the election will be welcomed back to this House as the duly authorized and elected Representative of the people of District 90 with no disparities, no questions, and no insinuations.

I might finally add that the facts presented to the Commission were not insinuations or innuendoes, the Commission spent two days with affidavits swearing in witnesses and verifying the claims and contentions made in the petition presented by Mr. Hickey and, hard as we might try to discredit that work, I must commend the Commission, all members of the Commission, for their patience, understanding and dedication in the eventual outcome and recommendation of their deliberations. The committee looked at their recommendations and the majority went along with them.

Our feeling all along has been that the process should be allowed to work. This does not happen often and I don't believe it will happen many times again. There have been many close elections in this body that did not result in this type of scrutiny and these findings of fact as was presented to us by the Commission. I do want to assure you that anything we did, we did because of our honest, moral belief that it was best for all involved. It was not the easy, political, and expedient way out.

I thank you for your consideration.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to start off by saying that I don't think there is anybody here that likes Dan Hickey more than myself. Dan is somebody that I met my first year here, who I respect, I like, and in fact, his cousin is the priest of our parish in Hampden and through that we have had conversations so I have come to know Dan Hickey well.

I don't get up because I like Sumner Lipman more than I do Dan or vice versa, I get up because I think fairness is something that is being impinged on today. I guess I have to be critical of the system and I have got to be critical of, specifically, the Ethics Commission.

I went to school in the Southwest and, in one of

my courses looking at the history of the West and the legal process and how it developed, you had a court that started back in the 1800's where the person was brought before the court for an allegation and there were instances where, because the person looked guilty, he has got to be guilty. You hear all the evidence to the contrary but he is still guilty. The fact is that nobody liked him, we got to get rid of him, he is guilty. That is an extreme case but, in essence, it is a parallel.

Today with the Ethics Commission, we may have intellectualized that whole process; however, we have got to examine the makeup of the Ethics Commission. We have people who are judging both Democrats and Republicans and we want fairness. We don't want the appearance of something that would be unfair. We have the appearance of something being unfair and that is the fact that we have a 4 to 2 breakup. That has the appearance of being politically, having the advantage of one party over the other — if we truly want to make a fair committee, it would be an even breakdown of 3 and 3 and you choose by 3 and 3 your chairman, whether it be a Republican or Democrat. That is a fair process. That also dispels any appearance of it being a political fiasco as we are dealing with now.

That cloud that was mentioned earlier was brought about by this political storm that we have been dealing with for the last two weeks and taking a lot of our time.

The fairness issue that bothers me the most is the fact that the Commission had the opportunity to take those 20 voters that may have voted in the wrong district and brought them before the Commission and if they wished to choose to tell the Commission who they voted for, it would have easily resolved it. Now if we say they are disfranchised because they voted in the wrong district, what about everybody else, the other 3,000 that voted? Are they not being disfranchised by going through another election and being unrepresented during a period of time that we are dealing with the budgets? Those are the ones who are being disfranchised so if you weigh the numbers, where is the fairness?

In looking at the one more count in the process, I guess, to drive a point home is that, I did attend a few of the hearings and listened to a few of the challenges and I recall one specific challenge. One of the challenges brought about the fact that an absentee vote was being challenged because it was witnessed by an aide and signed by an aide. If somebody is not competent to sign or anything like that, then the aide could put the X or can sign it for that person in their presence in showing their intent but, in that particular circumstance, that person cannot witness it. When it was challenged, that person signed it and witnessed it. The law was black and white, that's what it said, and you can't do it. Easy — throw the vote out. It took about 45 minutes to debate that issue and one particular member of the Commission tried to stretch it out to the point I had to go back and read it and say, "Is this Latin? Does this have a dual meaning or is this just black and white?" Indeed, it was black and white, that was a wrong vote. Let me tell you, I know all of us try to stretch what something means in here when debating and being an advocate but this was being stretched beyond the point of Star Wars. Eventually, that person conceded. At that point in my mind, it had the appearance of being partisanship

and that is why the question of fairness.

Yesterday I received a copy of the decision from the Ethics Commission, which was brought before the House Committee today and examined. I went through it and looked at the majority opinion and the dissenting opinion. Any conclusions and recommendations, which in part is part of the Order before us, it has on the 25th page, which is the second page of the decision and conclusions, a statement that says "When the results of disputed and challenged ballots are added to the undisputed ballots, the final vote tally is 1,493 votes for Mr. Lipman and 1,487 votes for Mr. Hickey. In other words, after all the ballots were counted, Mr. Lipman had a 6 vote margin in the general election held on November 6, 1990 for House District 90. However, the margin was less than the number of people (over 20) that the Commission previously included apparently voted or may have voted in the wrong district — we don't know whether they did or not.

The next paragraph at the conclusion of the hearing a motion was made that, based upon the apparent vote margin between the candidates that was less than the number of voters who apparently (and I might interject, possibly) voted in the wrong district, delays in voting, the irregularities in absentee ballot voting and so forth — it goes on to say that the Commission finds that the irregularities in the election were of such a nature and such magnitude to render the election invalid. The Commission finds that the rightful purpose of the election process is an expression of a voter's will and the public faith and confidence will best be served by holding another election. Those are kind of bold comments. I would expect a little bit more substance in justifying that means. I don't know really what that means because here you have the Commission saying, we have come to a conclusion based on the possibility that something might have occurred. What kind of a conclusion is that? Well, it is a faulty conclusion, it is a de facto conclusion, it is not a conclusion that, in my mind, is a sense of fairness, is right.

I was brought up, not in Maine, but in New Jersey and I was brought up, not in a town that had silver spoons, I was brought up that, when it came to a confrontation, you give it your best shot and when it was done, it was done. That was it. Everybody had a fair and equal opportunity and he brought to that debate or to that confrontation what he had but he had fair notice in any occasion.

This is not a fair fight because we now picking up on things such as the voting booths. The voting booths — the Secretary of State's office knew well beforehand they were short and gave it its blessing.

The objections that could have been raised on absentee ballots or the wrong voting district was not done. Normally through the process, it is done. Legally you might say, they were not done so bringing them up after the fact is nothing more than a little bit more of a tidbit that you can take and pick on.

I guess I would like to stop here and just say that probably out of 186 state races, you could go through every one of those and find some discrepancies. You could probably find four or five and we could probably find elections that were 24 apart or 13 apart or 50 apart and we could perhaps whittle away but that would be a waste of our time to do that. I don't believe that I am the only one (just because I am Republican) that can say nobody in

the other party would at least align with some of my sense of fairness. Thank you.

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I have been in this House since the 111th Legislature and I have been very proud to be a member of this House. I told the Speaker many times that I think this is probably one of the best run organizations in the whole country. I have always felt that, until today. Today I have a sense that my pride in being here is slightly tarnished.

Here are two upstanding men who ran a race, they both entered that race knowing that there is one winner, there is one loser. We all have the same kind of race, we don't know whether we are going to have a hundred votes or five hundred votes or one vote over the required half.

In my sense of fairness, if you get half the vote plus one, you have won that race. In this instance, there were questions, it went to a recount, that recount was held, it was rubbed and scrubbed and sandpapered and it came out that there were fewer votes for the winner than originally but there were still six votes over. If you only need half plus one, what about those other five people, where do they stand in here? They may feel that "maybe it is my vote they are questioning, maybe I shouldn't have voted." That is probably a little farfetched but, in addition to that, there are a certain number of people who have been voting in that district for 8 years and their votes were counted then. They were counted this time and discarded. If we are going to have a re-election, what happens to those people who are now (supposedly) not in the right district? They were not able to vote in another district at the time of the original election and they are not going to be allowed to vote in this election so those people are disfranchised certainly. We are talking about fairness, we are talking about the right of every person to vote, to vote as they wish, and I think we are doing that number of people a great disservice if we do have a recount beside the fact that we do, under all the rules, have someone who has won by the required number of votes. It is a small number to be sure, but if any of us run another time and we only win by 5 or 6 votes, I think that is going to make all of us wonder whether we are going to be questioned.

There are other sections of this election called irregularities — that is not the fault of either one of these candidates. They both ran without that awareness and it is brought up now — maybe it should have been brought up a long time ago — but I think this is the wrong time to make those corrections. I think it should be made at the next public election.

I would hope that we would all feel that we have to be fair to those people who will be disfranchised and that we really should vote against the pending motion.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: In the Kennebec Journal of January 10, 1991, Douglas Rooks, the Kennebec Journal's editorial page editor, in a bold headline asked, "What do Democrats want?" The article goes on to show, "Mr. Speaker, that it is not the Democrats, it is you, sir. Today I believe you, as the

Democratic leader of this once august body, write a new chapter in Maine's political history and that it will forever cast a cloud over this 115th Legislature. Your actions, sir, to declare a new election in House District 90, amount to nothing more than a blatant, political power grab, which is unprecedented in the history of the Maine Legislature.

Mr. Speaker, the citizens of House District 90 spoke last November and, even though the margin of victory was a narrow one, nevertheless, they chose Sumner Lipman as their duly elected Representative. For this Legislature to overturn, under your leadership, that result smacks of nothing but political bossism. Why, Mr. Speaker, do you want to deny Sumner Lipman his rightful place in this House of Representatives? Why, Mr. Speaker, do you want to use your enormous powers to swat the will of the citizens of House District 90 that have been expressed? Why, Mr. Speaker, do you want to force the citizens of Augusta to spend precious tax dollars on an election, simply because you didn't like the outcome? You have a huge majority in this House, Mr. Speaker, how much more do you want?

I know that several of your top aides and several of your local Democrat attorney friends have been plotting for this day since November's results showed that Sumner Lipman was the winner of House District 90. What is it about Sumner Lipman that you fear so much?

I can assure you, Mr. Speaker, that though you may intimidate some members of this House, you cannot intimidate the voters of House District 90. They will stand up to you, Mr. Speaker, because they recognize your actions for what they are, blatant, power politics. In a few weeks Sumner Lipman will, once again, stand before you in this House, only this time, his victory will be clear and decisive because this time the battle will be, not between Sumner Lipman and Dan Hickey, it will be between Sumner Lipman and John Martin."

The SPEAKER: The Chair would advise the Representative to please refer the proper way when dealing with members of the House or else he is in violation of the rules.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I had decided to not speak today but I am brought to my feet because, both the Minority Floor Leader and his assistant, have referenced articles and editorials in the Kennebec Journal.

The first question was the question of an editorial in December, which referenced me specifically. That editorial was written in response to a newspaper account that was done by a reporter for the Kennebec Journal who was responding to a press release that had been issued by the Representative from Augusta, Representative Lipman. The reporter came to me and asked what I perceived to be an extremely honest, forthright question and I gave my usual blunt, honest, answer. The reporter asked me why would Sumner Lipman issue a press release concerning the DOT building? I said I found it interesting since I knew he hadn't even talked to the Secretary of State about it and the only thing that I could conclude was that he was trying to improve his public image because he would face a subsequent election. That was an honest answer to an honest question.

The editor of the Kennebec Journal, Mr. Rooks,

seeing that (and by the way, Mr. Rooks editorialized his newspaper in favor of Mr. Lipman in the last election) went on to write his editorial. I called Mr. Rooks up and discussed the whole issue with him as I did with the reporter. I felt vindicated after the conversation and told the reporter and he relayed that to Mr. Rooks who wrote me the following letter: "I've been told that you feel vindicated by our conversation, I didn't think that I conceded that much. However, on re-reading the editorial, I agree that I did not do enough to put into perspective the idea that all House members would be serving as judges in the Hickey-Lipman affair, a notion by the way, put even sharper relief by the Election Committee vote Monday. Contacts, I agree, are important. In this case, I did not provide enough of it. Sincerely, Douglas A Rooks, editor, Kennebec Journal."

Yes ladies and gentlemen, my comments were taken out of context and the editor of the KJ admitted it. Representative Whitcomb restated that editorial into the record, the same editorial that the editor admitted had not properly been set in context.

Representative Marsano goes on to quote a subsequent column by the same editor who previously endorsed in the last election, Representative Lipman. I find it extremely interesting now hearing people talking about people prejudging things when that editor had access to the report of the Commission on Governmental Ethics before it had been signed by the Chair. In fact, he received it and commented on it before the House Committee on Elections even received it or this House even received it. Talk about prejudging.

The main thesis in that column was that this case was not identical to the Bath case because the Bath case were election day irregularities and this case, were all irregularities that occurred when the district lines were redrawn in 1982 — well, when the editor received my second phone call on that topic, he already knew why I was calling and already knew that he had made a mistake, another mistake. In fact, a report ran in the paper that day, that some 14 of those people who voted in the election either were registered on election day or election week so the main thesis in his article, his column, was incorrect and he again stated to me that he had misspoken his words and wished that he had put it in another context. Very interesting, that both that editorial and column would be used today and, in both cases, the person who wrote them admitted, subsequently, that they were flawed.

I hear a lot about partisan politics and it is real interesting to me that one side is pointing to the other side saying, "You are being partisan." Is it not conceivable, ladies and gentlemen of this House, that maybe the side doing the pointing is being partisan? Is that not possible? I ask you to reflect upon that.

The Minority Party today is asking you to accept a flawed election, an election in which the flaws exceed the margin of error and accept that, overriding your concern for a fair election to be called simply because they are going to point at you and say you are partisan. They have also stood here today and told you to be ashamed of the action that you are going to take, if you intend to do that. I have served in this body going on eight years. I have voted on the losing side of more roll calls than I want to remember and not once in my career in this

legislature have I ever been ashamed of any vote I have ever put in this body. Today will be no different. I have made up my mind based upon the facts of the case, the fact that at least 14 people voted in the wrong district. The margin of victory was exactly identical to that case in Bath, in fact the ratio was even greater in this case, and I will use that precedent to base my decision to vote for this Order. I would urge this body to do the same.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I rise really to respond to the remarks of my good friend, and he is my good friend, the Representative from Belfast, Representative Marsano, because I, frankly, am a bit resentful, not because he attacked the Speaker, that is his prerogative and I certainly don't care, one way or the other, except to the degree that it affects me personally.

I am sitting here struggling very hard to make a conscientious, informed and non-partisan vote on this very difficult issue. I consider it a very difficult issue and, quite honestly, it becomes harder for me to vote against the motion after hearing the Representative from Belfast than it was before. I am still struggling and, quite honestly, I still haven't made up my mind.

This is not a partisan issue nor has it been posed as that by any of the leadership of my party. Frankly, if they did, I would probably set it aside, but it has not. In fact, I have been encouraged, as has to the best of my knowledge all members of my party, to vote without concern for partisanship, without concern for party affiliation. I think that that is appropriate. To see it smutted by the comments of partisanship in this is, to me, disappointing for one thing and hurtful for another. I view my responsibility here seriously, I try to vote conscientiously on issues as they come to me, and I am going to treat this no differently. In fact, I will treat it more conscientiously because it is a more serious issue.

I know both of the gentlemen and I like both of the gentlemen that ran for office. I understand that election was run in a gentlemanly fashion and I credit both of them for that and I would hate to see an interpretation of my vote or anybody else's vote today that was based on partisanship. The Democrats don't need one more seat — come on, be sensible about this thing. The Democrats have a significant majority but they don't have the two-thirds majority and that one more seat is not going to make any difference in that regard. What we are talking about is whether or not the proper procedures were followed and whether or not to the degree that they were and they clearly were not, whether or not that justifies a new election or not. It is a very simple matter and it is a difficult matter and it has absolutely nothing to do with party labels. I hope everybody else in this body will join with me in voting on that basis.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I would hope today that we would vote on this issue and not in a partisan way. I received the Commission's report yesterday morning. As one member of the House Committee on

Elections, I spent last night and this morning looking over the report and not deciding, finally, until this morning how I was going to vote on it. As far as this is concerned, and I have talked with other members today, you could very well vote either way on this issue. It is just a matter of how you look at the irregularities the Commission brought out. In my opinion, on some of the irregularities that the Commission brought out, they agreed that for some of those reasons, there wouldn't be a new election. For instance, on the line at the polls, I think we all agree that Augusta wasn't the only area that had the long lines at the polls in November. I had lines in my district where people had to wait. It happened in small towns, it just wasn't in the cities. On the absentees — when they looked at the absentees, both candidates received some of those and it didn't change the election.

I will tell you where I came down on this issue — it was on the 24 irregularities. I asked the question yesterday and again today and I am satisfied that, out of those 24, 10 of those had voted previously in that district but lived in another district, so I narrowed it down to 14. When I looked at those final 14 irregularities, I said to myself, out of those 14, can I make a determination on whether those people would have voted for one candidate or the other and the answer is, absolutely not. So what I ended up doing in this vote was, that an election was held, Representative Lipman won the race by six votes and I believe we have to accept that. In my opinion, if we don't, in the future, every time we have a close election like this, there is going to be cause to say that there was an irregularity. It happened in the past, it is going to happen in the future.

The vote came down to six votes and that is where I cast my vote today for the person who won the election. I say again, I hope when the vote is taken, we forget about partisan politics and vote on the issue.

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

Representative SMALL: Mr. Speaker, Men and Women of the House: I rise today, not as a lawyer and not as a partisan member of the Legislature, but as one that at least has been somewhat involved in this precedent setting case that we mentioned before. I served with Courtney Stover as many of you also did. He was my seatmate and he is the one apparently that we are setting this precedent upon. I just got off the phone with him a short time ago and I just want to give you what I perceive to see as some of the differences between the two cases.

First of all, we are talking about this being a flawed election and the reason that we need a new election was because this was a flawed election. I would maintain that just about all of our elections are flawed elections, in some way or another. I come from a town, as you can tell by the precedent that was set there ten or fourteen years ago, that has two legislative districts in it. We have seven wards but not all of them are broken up. Representative Holt and I share legislative districts in that town. To this very day, I have people in her district tell me that they voted for me. I don't know whether they are doing it just to be nice or whether they actually got a ballot but I bet every one of you that are in multi-numbered district towns have someone come up and say that they voted for you in the last

election. You have to somewhere in the back of your mind wonder, "Did they really have a ballot from the other district?" In our area, the voting places aren't the same. I would say that there is probably a very good chance that more than one person has either voted for me that is in Representative Holt's district or vice versa or voted against me that was in Representative Holt's district. Nevertheless, those election problems do occur and, unless the margin is very close, nobody bothers with them.

I talked with Representative Stover and he said the same practices that went on in his election that called for a new election went on two years before, to the best of his knowledge, but nobody challenged that because the count was so wide and because the person that won was probably a member of the Majority Party. What his contention was in his race, there was no question that there were irregularities in that race. There were 200 votes that were challenged and legitimately so. Husbands and wives voted two different districts. People were asked by the ballot clerk who they would like to vote for and then given a ballot so they could vote for that person. It was a relatively new procedure then and they were just not versed in how you vote in single member districts, they were used to the multi-member districts. To them, there wasn't anything wrong with saying, "Would you prefer to vote for Courtney Stover or so and so?" Then they were given the ballot. I think the case has not been made that those irregularities happened in this election. Everywhere I read, it talked about the "possibility" that this might have happened. I don't think it has been proven as was in the original election, the District 89 election in 1977, which had the new election.

Despite the language that is very similar in this about how the irregularities called for a new election because you know there was such a margin for error there — when the new election was held, Representative Stover won by the very same margin as in the original election. I think that that shows the 200 voters that perhaps had been disfranchised were not, it came down to the very same margin. Those people voted but nothing changed by holding that new election.

I also asked him what the difference was between that case and this case (he had been following it) and he said, quite frankly, he did feel that there were irregularities in his election and that he felt that had he not been challenging an incumbent, that if he had been the incumbent and had he had been in the Majority Party, he felt that he would not have had to go through a second run-off election.

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

Representative BENNETT: Mr. Speaker, Ladies and Gentlemen of the House: It has been pointed out here today that the 1990 election was unusual and, like many of you, I have been involved in quite a few elections and it was unusual because of the vast number of people that did come out and vote. We should be thankful for that, that so many people did come out and vote. It undoubtedly did put a strain on our election system. As has been pointed out, there were an inadequate number of machines in Augusta but there were inadequate number of machines nearly everywhere in this election.

It is almost fortunate that this strain was placed upon our election system because I believe, in this case, irregularities existed for many, many

years. I am sure these irregularities exist in all of our elections.

The question for me has come down to, should this body be the body that determines whether there are irregularities in elections and to what extent those irregularities occur? In every election that I have been involved in, it has been a very important part of the election effort to watch activities on election day, to watch who comes in and who casts ballots. The question that this issue boils down to for me is, should this body be making those challenges or should they have been made at the polls on election day? I came to the conclusion that they should have made at the polls. It sets a dangerous precedent for us in every close election to be coming in and questioning the irregularities that undoubtedly occur. That is the responsibility of the candidates. We all have had that responsibility when we have run and we will have it in the future. We cannot change this process so that the House will become the party that challenges votes, it has to reside in the districts in the towns with the candidates.

I do not wish this issue to become structured around a partisan debate. As this matter is put before us, it is really not a matter of public business, but is rather a matter of private business regarding a parliamentary body ruling on its membership and I move for a secret ballot, Mr. Speaker.

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

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Bath is absolutely right — virtually every election is flawed, every election for everyone in this House is flawed. The question in this election is not whether or not it is flawed but whether or not the flaw exceeds the margin in the election. The question for us in this case where it does exceed the margin is, are we doing our duty if we approve of an election that is flawed and approve of the person that was elected by that margin? It has been said that we should not be the judge of the election but we have a legal responsibility to do that, it is in the Constitution, we must do that. It is not we who have taken it upon ourselves as the people who have accepted the Constitution who said we will be the final judges of the election. The question for us is, "Is it morally right to approve someone who is elected in a flawed election, when that flaw exceeds the margin that that person was elected by?" I say that it is not right to do that.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I would agree with my colleague that just spoke but I would like to point out, again, based on the conclusions of the Commission, they don't know that. They are basing their conclusions on a possibility, that is not a valid conclusion.

The SPEAKER: The Chair recognizes the Representative from West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: Those of you who know me know that I feel very strongly about my constituents and I measure everything I do here with their wants and needs. Obviously, none of my constituents are

involved in this district but I assure you they will challenge me when I stop at the gas station going home this afternoon or evening or whenever it happens to be. I have listened to the debate and there have been good points made on both sides but I am not sure that I can explain the unseating of a legislator who has won by six votes, especially when I have to use for my basis Supplement No. 3. No matter how you read that, Supplement No. 3 is filled with the words "apparent" and "irregularities." There is no way possible that we ever can get to the bottom of this and I strongly urge that we forget about the "apparent irregularities" and that we vote to support the man who has won by six votes and finally get on to doing the business of the state here, which is very serious, and that we seem to be putting away.

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

Representative BENNETT: Mr. Speaker, Ladies and Gentlemen of the House: Earlier I requested a secret ballot on this?

The SPEAKER: The Chair would advise the Representative that he is out of order.

The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: Augusta has 22,000 people and Legislative District 90 has registered voters of 4,930 people. On November 6, 1990, 2,988 people voted. According to the election results, the inspection, the recount, and now the Election Commission, I had six more votes than my opponent.

The discrepancies that we are talking about are the fact that 24 people were registered in the wrong district, not that they necessarily got the ballots, but they were registered in the wrong district. Some of these people were registered in the wrong district because when the legislature made our district and had houses from one side of the street in one district and the others from the other side of the street in another district (they changed it in 1983) and, in the process of changing it, they left out a street, that is why four people were in the wrong district and that has been in existence since 1984. Other people were in the wrong district for one reason or another and all these errors were there to be challenged at the time the people voted. When a person came in to vote and gave their name and address, either side, and there were Republican checkers and Democratic checkers, they could have challenged the voter. No one did that.

There were waiting lines in Augusta, half hour, an hour, as much as two hours — that was true everywhere. Why were there such long waiting lines in Augusta? We had a very long ballot because of all the referendum issues and also all the municipal officials were being elected. The machines that Augusta used in the total number of voting booths that were used on November 6th were the same total number of machines and voting booths that have been used by the municipalities in the last five elections. It didn't change, the places changed, but the same number of machines were available and the same number of voting booths were available. This was an extraordinarily heavy turnout on November 6th.

The point I am making is that Augusta is different than the Bath situation. In the Bath situation, there were 200 ballots that were passed out in the wrong district at the time of the election. In Augusta, everything that was wrong to

the extent that it was wrong could have been challenged by either Mr. Hickey or myself. Obviously, neither one of us did it because we didn't know that there was some misregistered people but why do I believe that this shouldn't be a precedent for a new election? Because assuming that we have another election and assuming for the purposes for the next election that Mr. Hickey wins by one vote — does that mean I can go through the whole district and if I find two people that were in the wrong district and no one picked it up, that we can come back and go two out of three? I just don't think that that is the way we ought to do things. I think we are going to disenfranchise great numbers of people by being overly technical here.

These are the same people that elected my opponent the last eight years that basically voted in this election. I want to tell you that I have the greatest respect for Dan Hickey, we had an admirable campaign, it was conducted on the highest level. The people who have moved away are going to be disenfranchised, the people who have died will be disenfranchised if we have another election. You know it is a fact of life that we may have (at the most) a thousand people deciding who is going to represent Legislative District 90 after previously 2,988 people voted and it means that we are without a Representative for the time this election is going on.

I can tell you in the analysis that I gave, if Mr. Hickey had won by one vote, I could go back and I could find two errors but I wouldn't do it. I think what we should do is, when we have gone through the process and we know who has got more votes and there is no fraud or deceit or wrongdoing, it is time for us to say, enough is enough, shake hands, and congratulate the other person.

In Texas, they had this situation and they found 20 disenfranchised voters in an election — they brought them in and had them vote three months later rather than have a new election. There is no way that we can recreate with a new election what we had on November 6th. What I see as the greatest danger of all (because whether I am here or Mr. Hickey is here, Augusta Legislative District 90 will eventually be represented) is the danger to all of you that someday you are going to be in a close election and what it means is, they are always going to get a new election because you can always find discrepancies, that is the nature of the beast due to the pressure that goes on on an election day. Thank you very much.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I happened to be on the Elections Committee and I, too, like Representative Strout, was given this document yesterday to read and I went over it and, not being an attorney, read it to the best of my ability. This morning when we went through the process, I came to the conclusion that I have some doubts and I think when you have a doubt, I respect the votes that I take and I am not going to begrudge myself the way I vote, but I always feel that in this particular area, because of the voting process, this is a very sacred thing when you are dealing with the voters right to vote. For this reason, I supported the committee report.

I can't help but go back and think about six years ago in this House and those of you who were here will recall that much legislation was put in on

absentee balloting. You all will recall what was taking place and apparently we thought a lot of it took place in my community and much legislation was put in. I think because it came before this forum, it was good.

The absentee process is well taken care of now. I understand how we feel on both sides of the aisles on this issue. I don't want to make it feel political but I honestly feel — what is so political in taking an issue like this and sending it back to the voters? We are wasting so much time on this right now and we have issues where I should be down in the committee room downstairs working and doing the real people's business. This is possibly a people's issue and I have no problem in sending it back to the voters of Augusta.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I apologize for getting up again but there are a couple of points that I must make.

There has been some contention here that the 20 or more voters that clearly voted in the wrong district is an "apparent number" or a "possible number" — I want to make it clear that the Commission did truly establish, indeed, that that number is accurate and those people not "apparently" voted but they did vote in the wrong district. As each exhibit was brought forth, as each ballot and group of ballots that were presented as an exhibit was brought forth and both sides presented their contentions to the Commission, the Commission would vote. In most cases, with very few exceptions, the Commission did vote unanimously that it was 6 to 0, that those people had voted in the wrong district.

As I said, we can talk about speculation all over the state but clearly, in defense of the Commission, and there may be problems with the way the system works, you may be unhappy with the members of the Commission, but we voted on most of those members to be members and I suggest that if you don't like the way we deal with it, then you try to find another way to deal with it. They had to deal with the cards that were dealt them, which is a phrase I have heard used quite a few times in the last couple of weeks, and the committee had to deal with the cards dealt us and that is what we tried to do. For the Record, we would clearly like to show that it was not partisan splits on these exhibits, it was unanimous most of the time, either 6 to 0 or 4 to 1 in some cases.

Representative Richards of Hampden was granted permission to speak a third time.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I hate to beat a dead horse but on page 25 of the report and I respectfully disagree with my colleague, Representative Jacques — I guess I will read it again, it's black and white. This was made available to everyone in the House. It is page 25 which is essentially the second page of the actual conclusion of the Commission. It says, "However, the margin was less than the number of people over 20 the Commission previously concluded apparently voted or may have voted in the wrong district." I disagree with the fact that, saying for the third time, we don't know whether they did or not. There is a possibility they may or a possibility they didn't but we don't know and that, I guess, is the strongest point of my argument. You don't base a conclusion on a possibility because you

could think of a million possibilities.

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

Representative DONNELLY: Mr. Speaker, My Esteemed Colleagues of the House: It is my first time addressing the House and I am quite nervous, so be patient with me.

I think this is a non-political issue that we have been faced with here. The politics of this issue were done at the polls when the residents of Augusta cast their votes, Democrat and Republican, for or against the issues that were on the ballots. I think the issue we are faced with here today is the Commission on Ethics and Elections has brought before us a report and the report does clearly state that 20 people may have voted out of their district. I submit to this body only that on a possibility do we cast out someone who was elected and it also stated in there "was elected by a margin of 6 votes." If one of those six people passed away, does their vote become nil? How many people are still going to be interested enough to vote a second time?

We in this state have a very high tradition of voters. We are very well ranked nationally and I think we take pride in that.

I would say that we should avoid the politics and we should go forth, vote as we individually feel, not along party lines, but along the lines that if it was our election, would we feel in our district — in our discrepancies that each of us may have had during the elections — do we feel we should all have a revote along those lines, close or not close?

The SPEAKER: The pending question before the House is adoption.

The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative Nutting: Mr. Speaker, pursuant to Joint Rule 10 and House Rule 19, I request permission to abstain from this vote for personal reasons.

The SPEAKER: The Chair will grant the request.

The Chair recognizes the Representative from Augusta, Representative Lipman.

Representative LIPMAN: Mr. Speaker, may I be excused from voting on this issue, please?

The SPEAKER: The Chair would advise the Representative that I see no reason why the Representative cannot vote. He is not in conflict.

Representative LIPMAN: Thank you.

The SPEAKER: The pending question before the House is adoption. This requires a two-thirds vote of all the members present and voting. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 5

YEA - Adams, Aliberti, Bell, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hوجلund, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Macomber, Manning, Martin, H.; Mayo, McHenry, Melendy, Michaud, Mitchell, E.; Mitchell, J.; O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skوجلund, Stevens,

P.; Swazey, Tardy, Townsend, Treat, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Heino, Hepburn, Ketterer, Kutasi, Lebowitz, Lipman, Look, Lord, MacBride, Marsano, Marsh, Merrill, Morrison, Murphy, Nash, Norton, Ott, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Tupper, Whitcomb.

ABSENT - Cashman, Gould, R. A.; Hastings, Hichens, Holt, LaPointe, Libby, Luther, Mahany, McKeen, Nadeau, Parent, Rand, Tammaro, Tracy.

EXCUSED - Nutting.

Yes, 82; No, 52; Absent, 15; Vacant, 1; Paired, 0; Excused, 1.

82 having voted in the affirmative with 52 in the negative, 15 absent and 1 vacant, the motion did not prevail.

(At Ease)

The House was called to order by the Speaker.

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

The SPEAKER: Pursuant to my authority under House Rule 1, I have today made the following appointments to the Standing Committees of the House:

STANDING COMMITTEES OF THE HOUSE

1991

WAYS AND MEANS

Ketover of Portland, Chair	O'Dea of Orono
Duffy of Bangor	Lord of Waterboro
Mahany of Easton	Foss of Yarmouth
Hale of Sanford	

LEAVES OF ABSENCE

Hichborn of Howland, Chair	Graham of Houlton
Manning of Portland	Anderson of Woodland
Melendy of Rockland	Stevens of Sabattus
Hوجلund of Portland	

BILLS IN THE SECOND READING

Tammaro of Baileyville, Chair	Stevenson of Unity
Cote of Auburn	Norton of Winthrop
Daggett of Augusta	Marsh of West Gardiner
Kontos of Windham	

ENGROSSED BILLS

Kilkelly of Wiscasset, Chair	Pines of Limestone
Simpson of Casco	Look of Jonesboro
Ruhlin of Brewer	Murphy of Berwick
Skoglund of St. George	

RULES AND BUSINESS OF THE HOUSE

The Speaker, Ex Officio	Whitcomb of Waldo
Gwadosky of Fairfield	Marsano of Belfast

On motion of Representative O'Gara of Westbrook,
Adjourned at 3:54 p.m. until Monday, January 14,
1991, at two o'clock in the afternoon.
