

MAINE STATE LEGISLATURE

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

VOLUME I

FIRST REGULAR SESSION

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

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
18th Legislative Day
Wednesday, February 17, 1993

House is passage to be enacted. This being an emergency measure, a two-thirds vote is necessary. Those in favor will vote yes; those opposed will vote no.

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

Prayer by Carl D. Pabst, Member of the Local Spiritual Assembly of the Baha'is, Portland.

The Journal of Tuesday, February 16, 1993, was read and approved.

ROLL CALL NO. 8

YEA - Ahearne, Anderson, Bailey, R.; Bennett, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Cross, Daggett, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Heino, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kneeland, Kontos, Kutasi, Larrivee, Lemke, Libby James, Look, Lord, Marshall, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Quint, Rand, Reed, W.; Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Spear, Stevens, K.; Strout, Sullivan, Swazey, Tardy, Thompson, Townsend, E.; Townsend, G.; Tracy, Treat, Tufts, Vigue, Walker, Wentworth, Winn, Young, The Speaker.

NAY - Adams, Aikman, Aliberti, Ault, Barth, Clark, Clukey, Foss, Greenlaw, Hillock, Jones, Joy, Lemont, Lindahl, Lipman, MacBride, Marsh, Nickerson, Ott, Pendexter, Reed, G.; Simoneau, Small, Stevens, A.; Taylor, True, Whitcomb, Zirkilton.

ABSENT - Bailey, H.; Beam, Bowers, Carr, Fitzpatrick, Kilkelly, Libby Jack, Murphy, Pendleton, Plowman, Richardson.

Yes, 112; No, 28; Absent, 11; Paired, 0; Excused, 0.

112 having voted in the affirmative and 28 in the negative with 11 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

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

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1993" (EMERGENCY) (H.P. 24) (L.D. 27) (Governor's Bill) which was passed to be engrossed as amended by Committee Amendment "A" (H-21) as amended by House Amendments "A" (H-23) and "B" (H-25) thereto in the House on February 16, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-21) as amended by House Amendments "A" (H-23) and "B" (H-25) and Senate Amendment "B" (S-24) thereto in non-concurrence.

The House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1993 (H.P. 24) (L.D. 27) (Governor's Bill) (H. "A" H-23, H. "B" H-25 and S. "B" S-24 to C. "A" H-21)

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

Representative Whitcomb of Waldo requested a roll call.

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

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

The SPEAKER: The pending question before the

(At Ease)

The House was called to order by the Speaker.

SENATE PAPERS

Bill "An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for Fiscal Years Ending June 30, 1994 and June 30, 1995" (EMERGENCY) (S.P. 159) (L.D. 524) (Governor's Bill)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act Concerning Closure of Municipal Landfills" (EMERGENCY) (S.P. 156) (L.D. 487)

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

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

Bill "An Act Concerning the Operation of Agency Liquor Stores" (EMERGENCY) (S.P. 157) (L.D. 488) (Governor's Bill)

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

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

Bill "An Act Concerning the Mandatory Use of Car Safety Seat Belts" (S.P. 155) (L.D. 486)

Bill "An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (EMERGENCY) (S.P. 158) (L.D. 523) (Governor's Bill)

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

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

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills and Resolve 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:

Banking and Insurance

Bill "An Act to Ensure an Option for Complete Recovery for Injuries to Minors" (H.P. 413) (L.D. 532) (Presented by Representative KETTERER of Madison) (Cosponsored by Representatives: LIPMAN of Augusta, OTT of York, Senator: CONLEY of Cumberland)

Bill "An Act to Promote Competition in Motor Vehicle Glass Replacement and Repair" (H.P. 417) (L.D. 536) (Presented by Representative FOSS of Yarmouth)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Ensure That Senior Citizens Have

Access to Parks Purchased with State Funds" (H.P. 420) (L.D. 539) (Presented by Representative KONTOS of Windham) (Cosponsored by Representatives: GRAY of Sedgwick, HALE of Sanford, MURPHY of Berwick, SIMONDS of Cape Elizabeth)

Ordered Printed.
Sent up for Concurrence.

Fisheries and Wildlife

Bill "An Act to Amend the Laws Pertaining to the Distance Snowmobiles May Be Operated from Certain Buildings" (EMERGENCY) (H.P. 424) (L.D. 543) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representatives: AHEARNE of Madawaska, ANDERSON of Woodland, DEXTER of Kingfield, FAREN of Cherryfield, GOULD of Greenville, HICHBORN of Howland, HUSSEY of Milo, LARRIVEE of Gorham, LORD of Waterboro, MICHAUD of East Millinocket, MORRISON of Bangor, NICKERSON of Turner, PINEAU of Jay, REED of Dexter, ROTONDI of Athens, STROUT of Corinth, SWAZEY of Bucksport, TARDY of Palmyra, TOWNSEND of Eastport, TRACY of Rome, Senators: CAREY of Kennebec, LUTHER of Oxford, PEARSON of Penobscot)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act Regarding Missing Children" (EMERGENCY) (H.P. 425) (L.D. 544) (Presented by Representative HOLT of Bath) (Cosponsored by Representatives: CHONKO of Topsham, QUINT of Paris, Senator: CAHILL of Sagadahoc)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act to Improve Zoning Authority over the Retail Sale of Liquor" (H.P. 410) (L.D. 529) (Presented by Representative O'GARA of Westbrook) (Cosponsored by Senator CLEVELAND of Androscoggin and Representatives: CROSS of Dover-Foxcroft, DAGGETT of Augusta, DiPIETRO of South Portland, DONNELLY of Presque Isle, LEMKE of Westbrook, MORRISON of Bangor, PLOURDE of Biddeford, STEVENS of Sabattus, Senators: BRANNIGAN of Cumberland, HANDY of Androscoggin)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Improve Communication between the Executive and Legislative Branches" (H.P. 419) (L.D. 538) (Presented by Representative FAIRCLOTH of Bangor) (Cosponsored by Representatives: AHEARNE of Madawaska, BENNETT of Norway, CARROLL of Gray, JOSEPH

of Waterville, LIBBY of Buxton, MITCHELL of Vassalboro, MORRISON of Bangor, WALKER of Blue Hill, YOUNG of Limestone, Senators: BALDACCI of Penobscot, PINGREE of Knox)

Resolve, Requiring All State Departments and Agencies to Analyze Unfunded Mandates (EMERGENCY) (H.P. 418) (L.D. 537) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Representatives: MacBRIDE of Presque Isle, REED of Falmouth, SMALL of Bath)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Require Credit Unions to Pay Sales Tax and Income Tax" (H.P. 412) (L.D. 531) (Presented by Representative DORE of Auburn)

Bill "An Act to Facilitate State Income Tax Withholding from Ordered Civil Service Annuities" (EMERGENCY) (H.P. 423) (L.D. 542) (Presented by Representative AULT of Wayne)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act Concerning the Inspection Standards for Buses" (H.P. 414) (L.D. 533) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Senator HANDY of Androscoggin and Representatives: JOHNSON of South Portland, O'GARA of Westbrook)

Bill "An Act Establishing University of Maine System License Plates" (H.P. 415) (L.D. 534) (Presented by Representative STEVENS of Orono) (Cosponsored by Senator O'DEA of Penobscot and Representatives: ADAMS of Portland, AHEARNE of Madawaska, AULT of Wayne, CLOUTIER of South Portland, HUSSEY of Milo, LEMKE of Westbrook, MITCHELL of Vassalboro, MORRISON of Bangor, NORTON of Winthrop, O'GARA of Westbrook, OLIVER of Portland, PFEIFFER of Brunswick, PINETTE of Fort Kent, SIMONDS of Cape Elizabeth, SMALL of Bath, STEVENS of Orono, Senators: AMERO of Cumberland, LAWRENCE of York, PARADIS of Aroostook)

Bill "An Act to Amend the Laws Governing the Use of Emergency Lights on Vehicles" (H.P. 416) (L.D. 535) (Presented by Representative AIKMAN of Poland) (Cosponsored by Senator CLEVELAND of Androscoggin and Representatives: AULT of Wayne, BAILEY of Farmington, CARROLL of Gray, CLARK of Millinocket, PENDEXTER of Scarborough, SMALL of Bath)

Bill "An Act to Extend the Deadline for Construction of Salt and Sand Storage Buildings" (H.P. 422) (L.D. 541) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Representatives: AHEARNE of Madawaska, CARROLL of Gray, CLARK of Millinocket, CLUKEY of Houlton, FARREN of Cherryfield, HEINO of Boothbay, HICHBORN of

Howland, LORD of Waterboro, PLOURDE of Biddeford, POULIOT of Lewiston, STEVENS of Sabattus, TOWNSEND of Eastport, TUFTS of Stockton Springs, Senators: DUTREMBLE of York, PEARSON of Penobscot)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Allow Public Utilities to Develop Economic Development Rates" (H.P. 411) (L.D. 530) (Presented by Representative MORRISON of Bangor) (Cosponsored by Senator VOSE of Washington and Representatives: CAMPBELL of Holden, CLARK of Millinocket, DONNELLY of Presque Isle, MARTIN of Eagle Lake, MICHAUD of East Millinocket, VIGUE of Winslow, Senator: CARPENTER of York)

Bill "An Act Regarding the Use of Natural Gas in Motor Vehicles" (H.P. 421) (L.D. 540) (Presented by Representative KONTOS of Windham) (Cosponsored by Representatives: GRAY of Sedgwick, HEESCHEN of Wilton, JACQUES of Waterville, MARSH of West Gardiner, SIMONDS of Cape Elizabeth, WENTWORTH of Arundel, Senator: CARPENTER of York)

Ordered Printed.
Sent up for Concurrence.

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333

HOUSE COMMITTEE ON ELECTIONS

To: Joseph W. Mayo
Clerk of the House of Representatives
of the 116th Legislature

In compliance with the directive of the House, enclosed herewith in the form of an Order is the Majority Report of the House Committee on Elections regarding the election in House District 101.

S/Paul F. Jacques, Waterville
S/Roger M. Pouliot, Lewiston
S/Richard A. Gould, Greenville
S/George A. Townsend, Eastport
S/Elizabeth H. Mitchell, Vassalboro
S/Hugh A. Morrison, Bangor

Dated: February 17, 1993

Was read and ordered placed on file.

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

Whereas, on November 30, 1992, the Secretary of State certified to this House that general elections were held on November 3, 1992; and

Whereas, on December 2, 1992, Sumner A. Jones, Jr., of Pittsfield was administered an oath of office and permitted to temporarily assume the seat in House District 101, pending further action and determination and declaration of that determination by majority vote of the House, after receipt of a copy of findings of fact and opinion of the Commission on Governmental Ethics and Election Practices, and further consideration by this House and the House Committee on Elections to determine and declare the results of this election; and

Whereas, the Constitution of Maine, Article IV, Part Third, Section 3 provides that the House shall determine by majority vote the qualifications and elections of its members; now, therefore, be it

Ordered, that the House rescind its action in provisionally seating Sumner A. Jones, Jr., as the Representative of House District 101; and be it further

Ordered, that Louise Townsend be seated in the House as the duly elected Representative of House District 101.

Was read.

Representative Jacques of Waterville requested a roll call.

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

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: As there is another Order that should be coming shortly, I would ask that somebody table this until later in today's session.

The SPEAKER: The Chair would advise the Representative that the Order of the Representative from Corinth, Representative Strout, would not be in order if this Order is passed.

The Order before us is now debatable.

The Representative may proceed to debate if he so wishes.

Representative STROUT: Mr. Speaker, Men and Women of the House: What you have before you tonight is an Order to seat Louise Townsend in District 101.

I would ask the members of the House tonight to reject this Order and I do it for a couple of reasons and one in particular. As I looked at the briefs that were presented to me in the last couple of weeks and as we went through the process, it is my opinion that the right thing to do is to hold a new election.

Some would say to you tonight — why would Representative Strout not uphold the law? I know exactly what it says concerning this issue. What it basically says is that you are supposed to challenge on election day. Let me tell you people of the House that there is no way in this world that candidates can challenge on election day if a person is registered in another town and votes in another town. There is no way that that candidate can do it. Some of you here would say, well, I have run before and I have people who are at every polling

place and I make sure that this is done. That is true in some cases but I have got to tell you that in this case we had two candidates last fall that were running for the first time and I can tell you that, even though the law says you should challenge on election day, there is no way those people could have challenged those people who were voting that day. There is no way that you could do it.

I will give you a situation in my community where we have five mailing addresses for the town of Corinth. Five different towns have our same mailing address and I say to you, if I were to ask my warden clerk to check those people who come in on election day whether or not they in fact live in that town is impossible. I will give you a good case in point — it happened last November in my community. Two people who lived in another town voted in our town and it was not checked until the next day. The reason for that is that the next day my warden clerk said to me, "Do you know this couple?" I said, "No."

The fact of the matter is that they lived on the Exeter Mills Road and they voted in the town of Corinth but they were residents of the town of Exeter. I called the clerk in Exeter the next day and I asked her specifically, "Did these people vote?" She said, "No." The reason nothing was done about these two people is because there was no recount in that district and that town is in the same district as the town of Corinth so why would there be any challenge for those two people? We did notify them the next day and told them that, in the future, they should vote where they registered.

Now the issue that came down here is that the Commission on Governmental Ethics voted 7 to 1. They spent a lot of time looking over these issues and they recommended that a new election should be held.

The issue that I looked at that (and I am not getting into the other issues that I read in the brief) convinced me why I should vote this way was that there was five people who voted in different towns on election day. Two of them voted in Canaan when they should have voted in Clinton and the other three I can't remember but if I remember correctly, a couple voted in Pittsfield that should have voted in Newport. Whatever, there were five people who voted in the wrong town and there was only a difference of 4 votes.

I am asking you tonight not to decide on the floor of this House whether we seat Sumner Jones or Louise Townsend. What I am asking you to do is give a vote to the people of District 101 so they can have a chance to vote the way they should and that is what we should do.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: We all understand that the issue before us tonight is a very serious one, probably the most serious this year that you and I will have to decide on. I want to assure you that no one on the House Elections Committee took the issue very lightly.

It can be a very cumbersome and complicated thing but it does not boil down to a very complicated situation. The choice you have to make tonight, whether we like it or not, is, do you and I, who have taken the oath and swore to uphold the Constitutional laws of Maine, obey those very laws? It is a very simple issue.

The fact of the matter is that those five votes

that were thrown out by the Commission were done so against the very advice of the Attorney General's Office. He told them, if they did so, they would be violating the law and the decision handed down by the justices. The fact that five attorneys, members of a commission, would choose to disregard their legal advice and make the decision they did, they have to speak on that for themselves. But by no means do I feel obliged, in any way, shape or form, to compound what I believe to be a very egregious affair by casting my vote and, again, disregarding state law.

The House Elections Commission requested permission and got it from this House to go out to someone outside to indeed look at the matters that were referred to the House Committee on Elections and we chose a professor from the Law School, Mr. Dave Gregory. You all have a copy of his advice to the House Committee on Elections and I challenge anyone in this House (after reading that) to say to any of us who are on the Majority Report that we did, indeed, disregard state law. I want to point out that this has not only been substantiated by Mr. Gregory but also was brought up by Joe Ezhaya who was the dissenting opinion on the Commission. It was further ruled on by the Law Court and was agreed to by Cab Howard, who serves as all of our legal counsel, and in the transcript, interestingly enough, the Commission members posed a series of questions. One of them was, if they disregarded legal counsel and voted against the law, could they be held personally accountable? They were told no. Then they voted to disregard legal counsel and voted to disregard the law.

Representative Strout is exactly right, and I discussed it at great length with Mr. Gregory — to put the burden of challenging these situations on election day on the people that are there may, indeed, and probably is, a very undue burden. The simple fact of the matter is, right now, today, in the State of Maine, that is what you have to do. There is no disputing that.

You will hear arguments that will go all around the issue because I personally believe that if you can muddy the water enough, you confuse people enough, they will make a mistake. I firmly believe that is what happened in the Commission's case, that the waters were muddied enough that the Commission made a serious mistake, but I will not compound that mistake, I cannot compound that mistake, I don't see how anyone who takes the oath can, with a straight face, compound that mistake by disregarding four independent, separate determinations that the law is the law. As a matter of fact, Mr. Gregory and I discussed it and he said to me, "Representative Jacques, you have the ability to change the law to deal with challenges on election day, you people have that ability. If you don't think it is right, you should change it, but I would point out to you that when you make the change, you had better seriously consider all the impacts of making that change because, quite frankly, if you extend the period of time, someone could go back and challenge elections for weeks, for months, for years. If you think it is an easy thing to do in a House election, just imagine a gubernatorial election, a United States Senate election or for that matter, two Congressional elections, if you allow the challenges to go on and on and on."

The simple fact of the matter is that the five people who voted in the town of Canaan and Pittsfield

had legal residences in the town of Pittsfield and Canaan and Maine law says that you are allowed to vote there if you only vote once and if your intent is to someday come back there to live. You all know honestly, if you look around in your district, that there are many people who voted in your district (may have voted for or against you) who fall in that exact same category. So, the committee was faced with one major dilemma — do we establish precedence that we disregard the law? Now the Commission, I guess, has that flexibility because they are entering an opinion, they are basically a volunteer group, they are basically advisory, but you and I establish the law. We implement the Constitution and faced with what we had to deal with, the facts at hand today, the law today, the facts presented to us today, the determination that the majority made was the only determination we believed that we could make.

How you vote is your affair. Whatever reasons you choose to vote the way you do is your business. I can only speak for myself, and I am sure the other members of the majority will speak if they choose to, but, ultimately, this House has to make that decision. The Constitution says that, it is not something that we can pass off to someone else. Like it or not, we are left with that ultimate decision and we made the recommendation based on the law and the advice that we got from someone who is very well respected. Again, I have nothing but the utmost respect for all members of the committee, their integrity has never been challenged on the floor of this House or anywhere, and I stand by that again this evening. So once again, how you vote is up to you, we based it on the law. I have got to say to you, if the Maine Legislature, the Maine House of Representatives, cannot follow the law, then who can?

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: Let me share with you a little bit of what happened on January 25, 1993. We had a full day hearing in front of the Elections Commission. The Elections Commission is composed of four Republicans, four Democrats, and a chairperson. They took testimony under oath, they heard all the testimony. Both sides were there, both sides were represented by counsel. The people, at the end of the hearing, after all the testimony was in, considered the evidence and they ruled on the first ground, which said that people from a different district voted in the town. They then ruled on the second ground that said that different people from the district voted in the town. Remember, the evidence was that these people didn't have a residence anymore in this town, the evidence was that they were no longer a resident of this town.

The Commission had before it three other grounds for which there was evidence on, but the members of the Commission ruled, and there was a vote, that since there were five people who voted from the wrong district and the vote margin was a difference of four, why go on to the other three issues? At that point in time, the Commission voted to recommend a new election.

The other three issues that the Commission heard evidence on was that there was a difference of nine votes between the total number of ballots issues versus those cast, spoiled, unused and absentees not returned. The Commission also heard evidence that there were fifteen more ballots than people who voted

and the Commission also heard evidence that nineteen people had registered on election day, either under the wrong name or a false address. That is also evidence the Commission heard.

The Commission then voted by a 6 to 1 or 7 to 1 vote to recommend a new election. They have made this recommendation based on what they believe was the right thing, hearing all the evidence as to what took place in this election. They make their recommendation and it comes to the House Committee. The House Committee has an opinion that the Commission should not have ruled the way it did on issues one and two. They are now recommending that we vote to seat Ms. Townsend. That would mean effectively that we are avoiding everything that the Commission did, this impartial Commission that we sent up there when they heard all the reasons to support a new election.

I have given you a history of what these people did in the area that took place and there were five lawyers on the Commission and I understand that there was an opinion issued by Mr. Gregory who says that you should object to the voter on the day the voter votes. I have not seen a copy of that opinion. However, even two years ago, the law was that if someone voted in the wrong district, you should object to them at the time they voted. However, this Commission had a history that if the number of people who voted from the wrong district exceeded the vote total by more than that difference — in other words, if there were more people who voted in the wrong district than the vote difference — then they issue a new election. They did it in Lipman vs. Hickey.

Six months ago, there was another election in front of the Commission in which, again, there were more votes from the wrong district than the difference between the candidates. This was a primary election and they issued, again, a new election. The Commission itself had precedent for what it did, was following its precedent, and made a recommendation to the committee. I urge you to follow what this Commission has done and that we adopt what this Commission has done and that we ought to vote down the Order and that a new election should be issued.

At least if we are not going to order a new election, the minimum we should do is remand it back to the Commission so that they can rule on the other three issues that they never reached.

I think what we are asking for is basic fairness and basic consistency. Thank you very much.

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

Representative DIPIETRO: Mr. Speaker, may I pose a question, please?

The SPEAKER: The Representative may pose his question.

Representative DIPIETRO: Mr. Speaker, when Representative Jacques referred to the paper that the Democrats all received in the caucus, I think the Republicans felt that they were a little left out. Do they have a copy of this paper?

The SPEAKER: The Chair would advise the Representative that that was given to the House Elections Committee and every member of the House Elections Committee had a copy. It was subsequently made available to every member of the caucus. No one asked that they be distributed to the members of the Minority, but at this point they are being passed

out, since I was unaware that they did not have them.

Representative DIPIETRO: Thank you very much, Mr. Speaker. I just think if they are going to make an honest and fair judgment on voting that they should have all the facts. Thank you.

The SPEAKER: The Chair would advise the member that that was available to them when the House Elections Committee met yesterday and I am surprised that it had not been made available to the Representative from Augusta or to anyone else in the Minority Party.

The Chair recognizes the Representative from Lewiston, Representative Pouliot.

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I, too, happen to be a member of the Elections Committee and like other Representatives have said, and I think all of you in this House would say, the 151 of you, that your oath of office is very sacred. That oath of office is to uphold the law. Now I am not an attorney, I am just a part-time legislator, who at times is asked to do a 20 hour a day job. We are put into these capacities to do the best of our ability to render a decision to the people of this state.

When a decision came to the Elections Committee, we were asked to look at the facts and we did. Upon the recommendation of the Attorney General and others, in court rulings, the only guidance that we had to do was to follow the law. I keep repeating — the law — because whether the law is right or wrong and any of you attorneys in this House know this, that is the only law we have, right or wrong. This body is duly charged to uphold the law.

Regardless of what happens here tonight, I can go home and answer to my constituents, but before I answer to them, I will answer to myself tonight when I go to bed, and say that I followed the law.

I will agree with Representative Strout — maybe the law is not good, I won't deny that, but that is the only law before the body. If we can't follow that law, what law do you want to follow, the law of the jungle?

These are not pleasant times for any member of this House, whether you are a Democrat or a Republican. I take this charge very seriously. It is not a pleasure to unseat someone in this House but when you are only given one opportunity and you are told that you must abide by the law, then you abide by the law.

In closing, I would like to pose a question to Representative Lipman. How do you justify not following the advice of counsel to the Commission?

The SPEAKER: The Chair would ask Representative Gean for what purpose he rises?

Representative GEAN: A point of order. Before Representative Lipman responds to that question, would you provide us with clarification on House Rule 14?

The SPEAKER: House Rule 14 reads as follows: No member (of this House) shall act as counsel for any party before a Joint Committee of the Legislature or a Committee of the House. The words, I guess, speak for themselves.

I would have to ask the Representative from Augusta whether or not he has been or is now acting as counsel?

Representative LIPMAN: I have been acting as counsel before the Commission. I did not act as counsel before the House Elections Committee for that reason. I am not acting as counsel at this time for

Mr. Jones. If in fact acting as counsel before the Election Commission is in violation of House Rule 14, then I will not vote and I will just continue to debate it. I thought that was the issue that was being raised by the pending rule change by Representative Gwadosky, that the Commission — if in fact the rule change had taken place, then the Commission would be covered by House Rule 14. As I understand House Rule 14, that would cover the House Committee and the legislative debate and I did not act as counsel before the House Committee. John Bott was counsel for Mr. Jones before the House Committee.

The SPEAKER: The Chair would therefore rule that House Rule 14 was drafted and has been on the books as long as my memory serves me and that was in place prior to the Ethics Commission having been created by this legislature. That rule has never been amended since that time, even though that may well have been the intent or lack of intent, so the Chair would have to use the strict interpretation that this does not apply to the representation that Mr. Lipman had before the Government Ethics Commission. By his own admission that he no longer represents Mr. Jones, the Chair would rule that he is not in violation of House Rule 14 at this time.

The Representative from Lewiston, Representative Lipman, has posed a question through the Chair to Representative Lipman of Augusta, who may respond if he so desires.

Representative LIPMAN: Mr. Speaker, Members of the House: I don't view it as my function here to explain why and what the Commission did in terms of that particular ruling. From our perspective representing Mr. Jones, we would have been happier if they ruled on all five grounds or six grounds and made a decision. The Commission chose not to, the Commission chose, after hearing all the evidence, to make a decision that there should be an election on grounds one and two. I can't tell you why they decided to rule on one and two and not rule on the other issues that they heard evidence on but, obviously, they would have been affected by these other issues and these other issues had a right to be heard.

The point I was trying to make, and I agree with you, we have to follow the law, I want to follow the law, we all want to follow the law, but if we vote to seat Ms. Townsend tonight, that means the law will have been here that those other three issues, which are critical issues, which could be the basis for a new election, will never have been ruled on and Mr. Jones will never have had an opportunity to get a ruling on it. So, my answer isn't a direct answer because I can't tell you what was in the mind of the individual Commissioners. We did not urge them to rule on issues one and two and not rule on the other issues, we wanted them to rule on all the issues.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: I must say that it grieves me to have to disagree with my friend, Representative Strout. My feeling of his integrity is — I have nothing but admiration for this man but we do disagree on this particular issue.

To me, it is very, very clear. I am not a lawyer and I don't have a deep legal mind so please bear with me on that respect. I may not agree with the speeding laws of the state but that doesn't give me the right to break them. As a lawmaker, I could put

a bill in to try to change them, that goes with any law that is now on the books.

Representative Lipman mentioned precedent had made from the case when his election was sent back — once again, I disagree with that, the law has changed since then. At that time, you didn't have to challenge that. The difference in that particular race is that the votes that were cast were cast in a different district, not just a different town, a different district. Also, you did not have to challenge that according to the law at that time on election day so there is no precedent there. There is no link there at all.

The other point I want to bring up is people's recollections of history — things get left out with our own perception and I think what we have going on here in the state and perhaps on the floor of this House tonight, and I don't offer this in a disparaging way because I can understand everybody is subject to the whims of being pulled. As a member of this House, you are pulled in many different directions but I think the basic question here that most of us have to ask ourselves — there is a perception that the public wants another election, there is a perception that there has been a lot of dirty dealing with the ballots and I would offer to you tonight that that, at this point, is a perception and only a perception. Keep in mind that in this great country of ours, you are innocent until proven guilty, so it is not even an issue. So, what you need to do tonight is say, am I going to vote to uphold my oath of office and to obey the law that is on the books? But, it is obvious that that law is inadequate as Representative Strout pointed out. I agree with him on that, it is inadequate, and if this has proven nothing else, it has proven that. Or, are you going to bend to what you perceive to be public sentiment? I will state right here on the floor of the House tonight, even if the public sentiment was proven to be to hold a new election, I would not cast a vote to break the law. It is as simple as that to me.

That simplicity probably comes from the fact that I am not a lawyer, that I sometimes see things in black and white. I respect those who can get into the nitty-gritty details of that but, for me, the only thing I brought to this House with me is my integrity. My integrity came from Elaine and Austin Townsend, my parents, they taught me that. When I leave this House, I intend to take that integrity with me. That is the basis of my decision, the basis of my vote. Nobody tells me how to vote, nobody tells me what I will or will not do.

I respect whatever way you vote here tonight, this is an issue of the heart, no question about it, you have got to make this decision for yourself. My decision will be that I will vote to uphold the law of the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: As you know, I don't get up very often to speak to you but I did have an opportunity to read the decision of the Commission on Governmental Ethics and Election Practices and I thought I would share with you some of what is in that opinion.

It is true that that opinion addressed the issue of the five votes which was the subject of most of the discussion here this evening and was also the

subject of the legal opinion that the House Commission obtained from their counsel. However, as somebody has also indicated, there were at least three other issues that were before the Commission when they held their hearing and I would like to discuss those and then tell you what the Commission had to say about that because it has a bearing on whether or not the Commission went through a full investigation of all of the factors that were involved in this election controversy.

The first part of the Election Commission's opinion related to the famous five voters who were not residents of the town.

The other issues were — an issue regarding, and again I am not familiar with all of the details of this, this comes from the opinion of the Commission, eleven other voters. The Commission said, "That they did not reach the merits of whether these voters had been properly allowed to vote." That's number one.

Secondly, the Commission investigated the alleged discrepancy of nine ballots issued to the town of Pittsfield. There was a discrepancy between the number supposedly issued to the town and the number of ballots that the town actually said that it had.

Thirdly, there was a discrepancy between the alleged number of ballots cast in Pittsfield and the number of voters who were checked off as having voted in the town of Pittsfield. I understand, and I will stand to be corrected if wrong, that the procedure in that town was, when you come into vote, the registrar checks off your name, you go into vote, you cast your ballot and then somebody checks off your name when you leave the balloting area. The number of people checked off on both of the lists were consistent but the number of ballots that actually were counted exceeded the number of checkoffs in that town by 15, which certainly raises a question which the Elections Commission could have investigated. And, depending upon the results of that investigation, it could have changed the result of that election. Here is what the Commission said about that issue: "The Commission did not reach the merits of these issues."

Next, there was an issue which we are all familiar with about the security of the ballots that was raised at the hearing. The Commission said about this: "In view of the disposition of the appeal set forth below, they will not authorize an investigation of this particular issue." The Commission decided that it had enough, rather rightly or wrongly, to base its decision on a new election based upon the five people who were not residents of the town of Pittsfield and, therefore, they expressly did not look into the other issues. The Commission said that those issues were serious issues but they said that they did not go into them.

I think that this Order should be voted down and that this matter should be returned to that Commission so that they can investigate these areas which have not been investigated. To do otherwise would be to make a decision based on ignorance of what the Commission comes up with as to these additional issues.

I urge you to vote against this pending Order.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: Like the Representative from Eastport, I am not a lawyer, I am just a humble college philosophy professor. One of the courses that I teach to students who are preparing for the

study of the law is ethics. In my courses on ethics with these people who are going to be lawyers, because you understand they are a rather difficult bunch and it takes a great deal of propaedeutical astuteness to deal with them, I try to explain to them the difference between justice and the law. We have heard a lot said here by a number of members of this body about how, if we don't accept this Order, we will be violating our oath to support the Constitution of this state. If you take a look at that Constitution, the very first words of the Preamble — they are also the first words of the Preamble of our Federal Constitution — they say, "that the purpose of the government of this state is to establish justice."

In our day-to-day fiddling around with the budget, worrying about health care and taxation and so on, sometimes we forget that that is the fundamental reason we are here, to establish justice. That's the only reason we are here and the law, unfortunately, is not the goal; justice is the goal. The law, unfortunately, is our imperfect instrument for establishing that justice but justice is the primary responsibility of every person in this room. It is difficult sometimes to discern what the just course is, but I must say, I think to seat either of these two candidates would potentially involve this House in an injustice and that, my good colleagues, is the most serious sin that we could commit against our oath of office.

So, I sincerely and very respectfully ask that you defeat this Order.

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

Representative TOWNSEND: Mr. Speaker, Ladies and Gentlemen of the House: Here I go and get myself involved in a debate on philosophy. I am going to try to avoid that.

We all have different ideas of justice, we all have our different ideas of what should or should not be done in our society. That is why we have the written law, to give us some direction.

Once again, I will reiterate that one thing this process has pointed out is that our law is not perfect, it needs to be looked at and needs to be changed. However, if we are going to determine what justice is, we have to have a guideline to go by and that is the written law, as imperfect as it may be. We need to go by that and if we don't agree with it, if we don't think justice is being served by the law as written, then we as lawmakers should change it.

It is a learning process, that is why they call America, the great experiment. You make a law, you live with it, you work with it for awhile, you find out it is imperfect, you make changes, or you do away with it or whatever. That is why the people send us down here.

Once again, I want to point out that I don't question anybody elses interpretation of this, but my interpretation is very clear and the law, in this particular case, is very clear and I intend to uphold that law.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: As the House Chair of the Education Committee, I am pleased with the education that we are all getting here tonight. As with any education, there is growth and growth is very

painful. I think you would find any of us who served on the Advisory Committee have made the recommendation to you as to what we believe was the right course of justice and any of us would have gladly changed places with you.

We all recognize tonight that this is not a partisan issue, this is an issue of our doing our best as the Representatives of those people who sent us down here to fairly interpret the law. You will find many, many times during this session that we will disagree on what that is, but it really has been an interesting debate.

There were several questions that simply must be addressed, that cannot be ignored. No one could be more eloquent than Representative Townsend when he talks about the importance of following the law. I think the burden on us is far greater than it is on someone who reads the newspaper because you have the ability to make those laws and to change those laws. We cannot walk away from that responsibility. In fact, many of you probably voted for the law which is now being debated.

Representative Strout, in good conscience, and we talked about this at length, believes that this law is not reasonable and, therefore, we are not balanced by it. I hope that I am not misinterpreting what he has said. I think that is what I heard him say.

I read a portion of the transcript of the Ethics Commission. The quote I would read to you is from the Chairwoman of that Commission, Mrs. Chamberlain, and they probably had been having discussions very similar to the ones we are having here tonight about whether or not it is possible to challenge votes on election day. How could you know how to do that? Many of the same conversations, I am sure, occurred there.

Mrs. Chamberlain's comment was, "I realize that it is the law but from the point of public service, which we are supposed to be protecting, it is not reasonable." I think she must have been in your philosophy class. The law was not as important to her as her view of justice.

The Elections Commission, which is the Ethics Commission, which is Advisory, I was very intrigued by Representative Lipman's comments. In part of his debate he told us what they were thinking and how they decided. In another part of his debate, he said that he didn't know what they were thinking or what they decided. He is probably right, that we don't know exactly what they were thinking. Representative Carleton read to us part of their decision, this part is clear and anybody who reads it will have no doubts.

The Commission chose to focus on one issue, the issue of challenging voters on election day. They had the opportunity to deal with every single issue that Representative Lipman would have us ask them to do again. They chose not to. They chose not to, I think, because they thought their strongest issue was the one about not being able to challenge voters on election day. But let's say that they had looked at the five other issues that Representative Lipman had in his brief. One of them had to do with challenging voters on election day so it would not be dealt with because it is the same thing, it had to be challenged on election day. As I understand it, based on other precedence on this Ethics Commission's ruling of court law, none of the others would rise to the level of calling for a new election.

Someone distributed to me a number of editorials about why there should be a new House election. I am

really pleased I didn't read them before I made my decision. My decision was not based on editorials and I am intrigued by the editorials in the Portland Press Herald who also said, "No question, legal provision is important, it stands as a barrier to endless challenges that could make the voting process chaotic and unnecessarily delay election results."

They, too, admit that it is the law but, never mind, you shouldn't do that, let's worry about the spirit of the law. What about the spirit of the law of all those people who showed up in November and stood in long lines and made very effort to cast their vote, not only in this race, but for the President of the United States and all the other issues that were on the ballot in those towns. You can never recreate that same election. I think it is a very serious thing to try to call for another election and recreate a moment in time. I think you would be disenfranchising voters and I am not sure that would fit under your definition of justice. I think it is very important that we consider that.

So remanding back to the Commission is inappropriate. It delays justice because it is February 17th, people were elected in November. The people of this district haven't known who their Representative was for all these months. How would the people in your district like to have that happen to them? I think it is important, having looked at the facts and knowing what the law is, that we each look into our own conscience and ask yourself, if the law says that challenges must be made to voters on election day, even if I don't like that law, must I abide by it?

Just as a little anecdote, because we have also had some history lessons, that law in the Law Court was Davis v. Ault that confirmed that. A very special friend of mine, Mr. Davis, would have won that election had we allowed ballots that were challenged after election day to be counted. They were not. This is not a partisan issue, it affects Democrats and Republicans and I ask you to think about the future and the precedent and following the law. This is probably one of the most difficult votes you are going to make but I have every confidence that each and every one of you will vote what you believe to be the law and you will uphold it because that is what you swore to do when you were sworn into this body.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, my Learned Colleagues: Tonight the eyes of the people of the State of Maine are upon us, they are looking at every member of this House. They are looking at us and be sure you will probably be knowing that tomorrow when the papers come out.

There is a dark cloud hanging over this election. There is no question of that dark cloud. We have heard two things that they have talked about, we have not heard what the action was on all five. They have not been resolved. If you throw out these two, I believe the other three things that have been brought up would be enough to hold another election.

I have been the moderator of many, many elections and I can't understand how you can have more ballots than the number of people that have voted. I just can't understand it. I would go nuts if I had an election like that as moderator. I just can't imagine it.

I think either we should vote this down or it

should go back to the Elections Commission.

I will tell you right now folks, every one of us tomorrow morning will be looking in a mirror, either you will be shaving or the ladies will be putting on their lipstick and I hope you say, "I did the right thing." I am going to do the right thing and I hope you do too.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I will only speak this time. I beg everybody's indulgence.

My good friend Representative Lord has talked about elections. I have got to tell you, back before four years ago, I did some recounts and many of them were very close elections and they were decided by four votes and ten votes and eight votes. Had this circus been allowed to continue, every one of those elections would have been in doubt because someone would have challenged on grounds 3, 4, 5 and 6. Quite frankly, there are blueprints to challenge elections across the state.

Now, you want to talk about an election — in this district, 101, they had the highest voter turnout in the history of that district.

My good friend Representative Young talks about justice — I was in the town of Canaan Monday on a visit, spent the whole day there and was quite curious and anxious to hear what the people had to say. I can't talk for Pittsfield, Hartland or Cornville, but I can tell you what the people in Canaan had to say. They have read, and the Commission's findings states, that Mrs. Townsend received 2,333 votes and that Mr. Jones received 2,329. That was after all the challenged ballots that were challenged by both parties in a recount had come to an agreement and they signed off and those were thrown out and put in, that was the result. To the people in Canaan that said one thing. But, the problem they had is, whose right is it to turn around and start challenging a citizen of that district's vote? Representative Lipman pointed out that points 3, 4, 5 and 6 haven't been address and all that. That is probably true. The reason I believe that they haven't been addressed is because they could look at every single election in the State of Maine and find the same exact thing. Case in point — Waterville called for more ballots that day and they told us "photocopy them, they are doing it all across the state." I said, "What?" "We ran out of ballots, they are photocopying ballots." And you say there could be a chance that you had a different amount of ballots that were turned into the town clerk's? Of course you could. You could photocopy 10,000 of them. What did they do? The ones that weren't used, they threw them in the trash. They did this all across the state. Why? Because people turned out to vote in strong numbers.

One of the questions I posed to Mr. Gregory was, if we just decide to disregard these five ballots, what about those five people that voted? They didn't violate the law as was pointed out in the brief by Mrs. Townsend's representatives. They didn't violate the law because they did indeed have residences in those towns and still do. Under the law, they are saying they are going to go back there, they were still registered to vote in Canaan and Pittsfield and they chose to vote there, they voted no place else.

Let's say that we accept everything else, what

about those people's ballots? Are we just saying we are not going to pay any attention to your ballot any more, it doesn't count? We are going to throw it out to justify an Advisory Commission's ruling that was muddled at best? Talk about disenfranchising voters, talk about justice, talk about an abuse of justice, what about those five people? What about all the people who turned out to vote that day for either Mrs. Townsend or Mr. Jones?

The other point is, as was brought up, how many of those people are no longer there? They are in Florida vacationing, in the hospital, they passed away — you will never be able to duplicate that election which was a point brought out by Mr. Lipman two years ago in his situation. He was right, you will never be able to duplicate that election but to the people in that district, the people I talked to, they were told and the commission agrees and everybody says they agree is that one person got 2,333 votes, one person got 2,329 votes and nobody disagrees with that.

I firmly believe if the commission had chose, which they apparently did not, to pursue the other factors, it could have gone on for years as can any other recount from this day forward because, if I was the losing candidate, I would automatically challenge as many ballots as I could that day and point to a vote of the Maine House that said, never mind the law, never mind what you have to do. The simple fact of the matter is, it has been two or three weeks after the election, before the recount, during the recount, even after the recount, throw in enough dispersions, throw in enough discrepancies in there, and you will be able to have a new election and turn it around.

To make one point perfectly clear, I asked the AG myself today, I said, "This election, this 101 election, what happened?" No evidence of any cloud over the election, that is" why it was thrown out and turned over to the House Committee on Elections." End of discussion.

I can't say that for the other one but that is what was told me on this particular situation.

I just wanted you to know what the people in the town of Canaan, who voted in the highest turnout ever, are looking at with this situation. One fellow said to me, "What right does a fancy lawyer from Augusta (with all due respect) have in challenging so-and-so's ballot, he has lived in this town 47 years, his father was one of the founding fathers, we all know him," ta da, ta da, ta da. I didn't have an answer for that person and I don't think I will ever be able to have an answer for that person if we throw those ballots out, bottom line. You are right, it is a simple matter of justice.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Marshall.

Representative MARSHALL: Mr. Speaker, Men and Women of the House: I am going to try to bring up my point without getting terribly emotional and without hollering at you. I think we all had in each of our districts probably the highest turnout in history. I know in my district it was at least very near, if not the highest, turnout in history. That is not a very pertinent point.

Somebody brought up the point that we are innocent until we are proven guilty — try that with the IRS or some of the other agencies like DEP, etcetera, in our state. I don't think that is a very good argument.

We live in a country where justice is not the prime thing, the letter of the law is the prime thing. I am concerned with that issue.

I would like to bring up the details of my own election on June 6th for the primary which was under the present voting laws that we have today. The vote was counted, I went home, and I had won by an apparent 27 votes, I believed. After I had gotten home, the Town Clerk from Kittery called my home and said, "I am very sorry to tell you this, but we have made an awful mistake at Kittery. We handed out improper ballots to members of my district so they in fact voted in another district." This was not challenged at the time of election, it was found out afterward by the town clerk and her staff.

I believe there were about 20 ballots that were handed out incorrectly which brought 20 into contention. My opponent called for a ballot inspection. We had the inspection and, in that, a mistake was found in the tallying of approximately 20 ballots in his favor which brought the difference in my election to seven ballots and 20 in contention. On that strength, we went to an official recount and found that things stayed the way they were found in the inspection. Then we went to the Ethics Commission, the Ethics Commission decided that we were to have a re-election. That is under these election laws, not the ones before this but this time. So, it looks to me like precedent had been set. There were more votes in contention than there was difference so that there was reasonable question. It looks like we have got a similar situation at the same time.

We talk about interpretation of the law and I think that is a fair word. We live under interpretation of the law. I wonder, without trying to be terribly accusing, if the vote had been reversed on this one, if the four vote margin was in the other direction, if the interpretation of the law might not be slightly different than it is now.

It has been brought up — why should we go against our counsel? Those of you that use legal counsel at times, like those in business, your legal counsel might tell you to do one thing, you may disagree. You have the right to disagree with him and try a different thing.

I would suggest that we vote against this issue and at the very least send the matter back to the Elections Commission. If not, go ahead and get a re-election on this.

Representative Townsend of Eastport was granted permission to address the House a third time.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: Two very short points. I didn't intend to get back up again but I need to address these two points. First, if the IRS or the DEP breaks the law, guess what? Two wrongs don't make a right. I won't argue whether they do or they don't, I don't know. Apparently the good Representative has more evidence on that than I do, but that is not an excuse to break the law.

Secondly, to answer his question, if the vote had been the other way, yes sir, my integrity is such that I would have voted according to law no matter who was seated, just so you understand that.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a couple of points.

The first point is that last week, I received a letter from one of the leaders of the Republican Party. It praised me for voting for the 60/40 split that we wanted on the committee. The letter said that they thought I showed a little bit of courage in voting my conscience. You know you can't determine a person's integrity and their conscience and courage by the fact you like the way they voted on a particular issue and then impugn their integrity because they voted a different way that you didn't like on another issue.

I have never asked anyone in this room, anyone, — excuse me if I shout but I get emotional and I don't apologize for that either — but I have never asked anyone in this room, this whole room, for permission to vote on anything. I have always voted what I thought was right.

For 15 years, I taught the Constitution to my students. When I made my decision on how to vote on this issue, I didn't make it on what the Ethics Commission might have voted on. I made it based upon what they did vote on and my interpretation is that they were wrong because it violated the law which is very important to me.

Maybe you don't see it that way and, if that is the way you see it in the opposite, that is fine. I have no hangup with that, but I am going to vote the way I taught my students, that the law is the important thing.

I will leave you with one last thought — excuse me, I will leave you with two thoughts. One thought is this, I hope when we are through and we all walk out of this hall that none of us feels that the person who voted the way they did, any of us in this room, has violated their integrity because each and everyone of us here is here to do what we believe is right. I certainly hope when we leave, that is the way we leave this hall.

The last point I will make is, justice can be best served by a nation of law, not a nation of individual opinion, and the opposite side of the coin of a nation of law, is lawlessness.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I am going to assume for the purposes of my remarks this time around that the opinion of the attorney for the Elections Committee was correct, that the issue that was addressed and which forms the basis of the remarks by my good colleagues that they wish to follow the law is correct in the sense that the issue of the five individuals who were alleged to not be residents of the town in which they voted was an issue that should have been raised at the time that these voters were being up to vote.

The memorandum from the law professor, Professor Gregory, lays that forth as the reason why on that particular ground the Ethics Commission was incorrect. I assume that that forms the basis of the comments that we have had here that people wish to follow the law.

I am going to assume that all of that is correct for purposes of this discussion and that law professor Gregory was correct that the Elections Commission was incorrect and that, on that issue, that issue was not enough to cause a difference. Assuming all of that, we know that there are other serious questions that arise concerning this election. We are asked tonight to make a final

determination concerning that election without having heard about these other issues.

I don't want to go on too long because I think I may be repeating myself, but I think it is true that the law that has been cited, the law that says that you must challenge voters before they vote or you lose your standing to do so later on would not apply to cases like the issues that we have here where we have a certain number of voters are checked in, a certain number of voters, the same number are checked out after they vote, and you have 15 more ballots cast than are checked on the voter list. The law that has been cited, I don't believe applies there. I think this is something that somebody should look into so that this House can make an intelligent decision about who to seat.

I urge you all to vote against this Order.

The SPEAKER: The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Members of the House: Representative Townsend from Eastport said to you a few moments ago that you may not agree with the speeding law but it is the law. You and I know that if a policeman pulls you over for speeding, some would try to argue their way out of a ticket, trying to offer some kind of reason, maybe a legitimate reason such as a medical emergency or some other reason. If the policeman believed that there were indeed extenuating circumstances involved, the officer might choose to not give you a ticket. If the only issue was whether or not someone was speeding and no other matters were taken into consideration, then you would no doubt get a ticket, regardless of what the circumstances were. But, in those situations, as with this one, the officers would have the opportunity to take these circumstances into consideration. We should do the same tonight.

If we adopt this Order without having decided based upon all the merits, all the aspects of this case, then we will leave a shadow cast over this institution and the people of District 101 which could be easily remedied by giving the people the right to choose, once and for all, who they wish to represent them for the remainder of the 116th Legislature.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: Trapped as I am over here behind enemy lines, it is perhaps understandable that I may have fallen under the spell of the Representative from Vassalboro. I am sure I am going to learn a lot discussing and arguing with you. I want you all to know that I have a tremendous amount of respect for your integrity and position on these issues.

I have to take issue with something that has been said here several times and that is that our responsibility to justice ends with following the letter of the law. That is what the good Assistant Minority Leader was just speaking about.

I have two anecdotes I want to leave you with and I promise I will stop talking tonight, I think, unless he goes again.

The first anecdote — this is something that I saw when I was in graduate school in Washington D.C., there was a drug deal and the paramedics showed up at the scene of the drug deal and two guys were shot,

bleeding and there were only two paramedics and a cop showed up. So, the two paramedics put the drug dealers in the ambulance and nobody to drive, so the cop drove them to the hospital. The next day some sergeant, probably some lawyer in the police department, cited that officer for violating some section of the D.C. code which said no officer will operate another municipal vehicle while they are on duty. It is just not as difficult as saying, following the letter of the law, although I don't want to imply by my remarks that I grant the premise that to reject this Order would be a violation of the law, I don't grant that premise.

The most serious case I want to give you is, there was a time when slavery was the law of the land and that was not just. I hope if I was a legislator, and a member of an institution that endorsed such an injustice, I would be ready to recognize — I know it is difficult, it is called discernment, you just can't go on the letter of the law. It is a difficult process, that is why this job is so hard. That is why I am not sure I really knew what I was getting into when I came here, but justice is what comes first and it is not always the letter of the law.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make a couple of points. I find it rather interesting that we are equating the seating of a member of this House with motor vehicle laws. I didn't intend to stand until I heard two people refer to the IRS. As a former Revenue Agent who is quite familiar with the appellate procedure within the Internal Revenue Service, I can assure you that if we were hearing a tax case, we would not be talking about the letter of the law, not at all. As a matter of fact, upon appeal in those types of cases, I would hope that this would prevail here tonight. The letter of the law is put aside and the facts and circumstances surrounding a case are considered in the whole. The idea is to get to an equitable solution to the problem to both the government and the taxpayer. Well, that holds true here also.

I am not a lawyer but reading on page two of Mr. Gregory's opinion, it seems to me that what he has there is quite clear where he quotes two Maine laws in which he says that under the Constitution, the House of Representatives of the Legislature is the sole judge of the elections and qualifications of its own members. The jurisdiction of the House to judge the election of its own members is exclusive and plenary. That is quite clear. We are here, we should be looking at the facts and circumstances surrounding this election. We should be looking to equity.

I have learned a lot of things in the last few weeks but one of the things that sort of caught me off guard when I was first elected was I suddenly started getting letters addressed to the "Honorable." My friends made fun of that, I made fun of that. It wasn't until last week when I got a letter from a constituent where this man was really upset about something and I read it. I had the envelope under the letter and as I put it down, I saw that word "Honorable" and it sort of hit me right here. Tonight it has hit me again. The "honor" of this House is on the line because we have the power to weigh the facts and circumstances in this

situation and make a decision and put the letter of the law aside, a law that you enacted, but we didn't enact the Constitution.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Kutasi.

Representative KUTASI: Mr. Speaker, Ladies and Gentlemen of the House: Two years ago, we were setting here with the same decision, debated it hour after hour, the decision was made. It basically set the tone for that session two years ago in the 115th and I hate to see the tone set here in this session. But, the facts are the evidence on this particular case aren't really all in and the decision has been made by the Elections Commission on that evidence.

People say we have to follow the law. We have a judiciary system in this state, people break laws everyday in this state, they have a right to representation, they go in front of the judge, the judge interprets whether this person has broken the law or whether there are mitigating circumstances on this person breaking the law and makes the ruling on the evidence that he has before him.

Ladies and gentlemen, we are the judge, we are the jury, do we have all the evidence to make the right decision? I ask you that question.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I stand on this issue simply to correct a couple of incorrect statements that have been made today. I had requested that information be distributed to my caucus and I had not been able to make the connection to the Representative from Waterville that we had not seen the materials, I requested that to him personally.

There is a very strong doubt as to what the voters did intend in Pittsfield. There has been a decision of the majority of the House Elections Committee to take a very narrow focus of the law and apply it in this issue.

We have heard from the Representative from Eliot how this law has been applied as recently as within the last eight months in regard to elections in this state. It was not necessary on that day to challenge at the time the vote was taken.

The Representative from Eastport made a statement just a moment ago in his comments that if the shoe were on the other foot, the vote would be the same. The last time the shoe was on the other foot, according to the Legislative Record, the Representative from Eastport did vote for a new election.

I read into the Record a statement from the Representative from Waterville in pleading for a new election. To quote, "There is 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" as he was calling for the new election.

We can remove the cloud today as well by defeating this Order and having a new election.

Representative Martin of Eagle Lake requested a roll call vote.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I have listened to this debate and I am very close to this issue because I was there. In my election, the cloud is from the

bomb that blew up in my recount and that is still hanging over this legislature whether you want to agree with that or not. It is hard for me to believe that people are unaware of the pall that is hanging over this legislature.

The issue of ballot security alone

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky, and inquires for what purpose the Representative rises?

Representative GWADOSKY: Mr. Speaker, a point of order. It is with respect that I rise and interrupt the Representative from Gorham, Representative Hillock. My concern is that Representative Hillock is attempting to address issues that are not before us dealing with House Order for District 101. My concern is that the ability to transcend beyond that Order before us is not productive and would suggest that it is inappropriate pursuant to the rules as I understand them.

The SPEAKER: The Chair would advise the Representative from Fairfield and from Gorham that the matter before us is on the passage of the Order and anything related to that may be discussed, anything beyond that may not be discussed.

Representative Hillock of Gorham has the floor.

Representative HILLOCK: Mr. Speaker, thank you, I have learned the lesson of helplessness.

I would like to relate to you a small story, not a story, an actual event. It has to deal with elections and is very pertinent about the pursuit of justice, the selectivity of law enforcement and the abuse.

The SPEAKER: The Chair would ask the Representative to please deal with the question of the seating of the Representative and the Order before us. The Chair apologizes for interrupting but ask that you please deal with the issue.

Representative HILLOCK: Mr. Speaker, I am dealing with that. The issue here is the seating of a man that won the election and, for reasons we are yet to know, lost it in the recount. I am relating an analogy which has been used before by a dozen people here and I believe I have the right to deal with it.

The SPEAKER: The Representative may proceed.

Representative HILLOCK: The actual event I am about to relate to you is why I am speaking, it is not the criminal issue that I cannot discuss in my race. Some people might think that but it is why I am outraged by the travesty of why I think justice is being ill-served here today.

15 years ago, some of you may reflect back, we had a President, Jimmy Carter. There was a young man, a young captain, doing his duty for us in Fatima, Okinawa. The middle of a typhoon is the setting here. A knock on the door at two in the morning saying, proceed to your aircraft immediately, the General will issue orders upon arrival. The young Marine dutifully put his boots on and away he went with a real question because there was a typhoon blowing and the only aircraft on the base was the one that he was the captain of, what was to become of this? He arrives at the aircraft and there are 15 young men, Marines, members of the Delta Force. Perplexed, he enters the aircraft and reads his orders, proceed to Manila immediately, the Embassy is under siege and the Ambassador is in the safe room, you have eight hours to get there.

This Marine took off, proceeded to Manila and

could not land, not knowing what was going on. Cables were coming in on the H.F. radio every hour. This Marine couldn't land in Manila, he went to Clark Air Force Base and landed not knowing what happened to our Ambassador.

It was uneventful after he landed but the next day orders came down to proceed into Angeles City with this detachment of Marines and this young captain led them. For those of you who don't know the history of the Philippines, the Marcos regime was running at that time and there was a general election. This young Marine had no idea what was really going on but he did what he was ordered and he went into the village and in that village of Angeles City, there was a City Hall and at the City Hall was cement stairs and pillars, Spanish architecture but there was a ballot box, a huge box about two bushels in size. As that Marine approached, gunfire erupted. For those of you who served in harms way will know what the should of an AK-47 is. He ducked into the ditch and when the cloud cleared, two men and a woman lay dead, one draped over the ballot box.

The motor scooter that went by was the assassin, scooted away. Justice was dealt with the Marines in that detachment as they rounded the corner. That young Marine captain was me. From that time on, I knew the sanctity of the ballot box should never be violated. For those young peasants who knew probably nothing of really what was going on but that it was wrong with the laws of that nation that were selectively applied to only a few and they were willing to give it all.

Today we have to respect that sanctity for every one who has proceeded before us, that justice needs to be served. We all know that the selectivity of law — we deal with that individually almost everyday. Everyone here, if they don't know now, has the developed ability to apply any law for any means he or she wants. We need to think of this today. The eyes of the people of Maine are upon us. The only way to resolve this issue is a court of public opinion in District 101. This is a vote of conscience.

Remember our Senator, Margaret Chase Smith, when she addressed her speech of conscience on the Senate floor. Laws were not broken, the laws were selectively applied at that time and civil rights were violated. Civil rights are being violated here today I think if we vote to seat a person under this pall that is hanging over the legislature. Please think of this, there will be partisan battles to follow but this is not a partisan battle because you could be sitting in this seat very easily.

Please vote to oppose the pending motion.

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

Representative KETTERER: Mr. Speaker, Ladies and Gentlemen of the House: This is a painful and difficult choice for me and I would like to tell you briefly why I feel that way.

I represent District 102, just one district away from the district in question. I know now and knew both of these candidates prior to this election. To me, this is not a partisan issue, although I guess a lot of people would like to see it as such. It is not an issue of Democrats versus Republicans.

To me, I think we need to look and examine our oath but I do not agree with those who say that we violate our oath as legislators we took when we were first installed here as 116th Maine Legislature. I

do not share the view that we violate our oath simply because we do not vote in favor of passing this House Order. In my judgment, one could easily vote not in favor of passage of this Order and not violate the sacred oath that we took. I think any suggestion to the contrary simply is not supported by the weight of the evidence or the facts that are before us.

In trying to analyze what action I would take in connection with this difficult choice, particularly when it is highly charged, Democrat versus Republican, I look back to a vote that we took on a cold day in January of 1991 because to me a lot of those issues that are present here were present in that particular instance.

There was reference earlier, in reading from the Record regarding debate that took place in the Augusta House seat involving Representative Lipman and former Representative Hickey, in that particular contest, there were certain factors which were present which I would respectfully suggest are present in this particular inquiry. For example, neither side in either of these races alleged fraud on the part of the candidate or the candidate's staff. Both of the elections were very close, decided by relatively few numbers. There was a recount in both instances.

Also, and perhaps most importantly, there were certain voting irregularities that were not related to fraud, people simply voted in the wrong district. My guess is that if we put a lot of our races under a microscope, we would find that that happens perhaps more times than we are well aware.

Those factors that were present in that race in 1991 were also present in the race that is being analyzed now. When that came for a vote and the floor leader for the Republican Party — evidently he has the roll call vote down there and I don't need to refer to it but it was my recollection and I could stand to be corrected if I am wrong, and I am sure someone will — that there were 54 votes in favor of seating Sumner Lipman as the Representative and there were 95 of the 97 Democrats who decided that there should be a new election. I was one of the two Democrats who did not vote with my party at what was one of the first roll call votes in this House in 1991, and I can tell you as a Freshman legislator, that was a pretty scary thing to do. I will also tell you candidly that there were members of my party who considered and indicated to me that they thought it was a goat and some of them were being kind in making that reference. Notwithstanding that, I voted that way because at the time, to me, it was not a Republican versus a Democrat issue, it was an issue of fairness.

In analyzing this issue, I see it exactly the same way and I intend to vote the exact same way because I am consistently going to apply the same principle that I applied the last time. If there is no fraud on the part of either candidate or their staff, if it is a close election that is subject to recount, if there are certain voting irregularities that are present in many elections, it should not be up to this House to upset the final numbers. The final numbers, in the prior vote, put Representative Lipman ahead after a recount by approximately 7 votes. In this particular vote, it puts Louise Townsend ahead by four votes. Notwithstanding the fact that five people may have voted in the wrong district in this particular election, we need to have a certain finality.

Looking all the way back to when people lived in caves, we always counted the things that were important to us and so we developed a system of numbers. When you look at the numbers, all you can say that this is a close race. When you are done saying that it is a close race, you realize that four is a bigger number than three. When you have that realization, you know that you have got to vote for the person who has won that election after the recount assuming no fraud, in this particular case, that would be Louise Townsend.

I give you thoughts simply because that was my analysis at the time, there were very few members of my party who agreed with me, but I hope they agree with me tonight.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank Representative Ketterer for erasing any question about whether we were upholding the oath that we took when we came into this House. I couldn't be more proud to serve in any institution but I believe this question is rightly before us. I haven't had much time to study the communication that I was handed a few minutes ago regarding the Constitution but it does say that under the Constitution, the House of Representatives of the Legislature is the sole judge of elections and the qualifications of its members.

Without referring to the intricacies of law, I believe when there have been as many questions asked as there has about this particular election, when those questions have been broadly broadcast over the media, then I believe that the people in that district should settle this matter. Therefore, without any reason other than that, I intend to vote against this Order and to urge you to think about removing all the clouds that hover over us, the clouds that would hover over the candidate who is successful in this case if another election is not held. The cloud over the body — ironically, I called Lubec tonight to wish a fellow in Washington County a happy birthday and the first question he asked me (and I would want you to confirm that, Representative Townsend, because he is your constituent) was were we voting on it? I said, yes. He asked me how I felt, I reiterated about what I am telling you. I don't think you are disenfranchising the people back there when you have them answer the question, once and for all, and hopefully this time there won't be any other questions surrounding that outcome. Hopefully, this would be a careful, very carefully conducted, with plenty of ballots on hand and I would hope that everyone in that district had a chance to do that. I believe that this body would stand tall, far taller than if we do what is represented by the passage of this Order.

That is how I feel and I appreciated hearing how many of you feel and I also wonder how many others feel but I know the hour is getting a little late and probably I violated some of your patience at this point, but that is how I feel and I seem to have to say it.

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

A vote of the House was taken and more than one-fifth of the members present and voting having

expressed a desire for a roll call, a roll call was ordered.

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

Representative AULT: Mr. Speaker, Men and Women of the House: I was fortunate to be born in a country founded on the principles of democracy. Every week we all read about people who are not as fortunate, who risk their lives to reside in our country, presumably I would say to participate in a democracy.

I submit to you that this communication does not represent democracy to me. The most sacred right of citizenship is the right to vote. I take pride in knowing that citizens in our country have the right to choose who represents them in government.

The results of the vote on the pending motion could take away from the citizenry of District 101 their opportunity to exercise their right to vote on who will represent them in Augusta. As you cast your vote, I remind you that our credibility is in question. The citizens of District 101 deserve to have a voice determining who should be seated in the Maine Legislature.

Defeat the pending motion and allow them to exercise that that is rightfully theirs.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Mr. Speaker, to get to the situation I now find myself in, I feel that probably I should not vote on this issue and I seek your advice Mr. Speaker in this regard.

The SPEAKER: The Chair would advise the Representative from Pittsfield, Representative Jones, that as long as he continues to be a member of this body, he has the authority and the Chair would rule that he must vote.

Representative JONES: Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage of the Order. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 9

YEA - Adams, Ahearne, Aliberti, Bowers, Brennan, Caron, Carroll, Cashman, Chase, Chonko, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Jacques, Jalbert, Johnson, Joseph, Ketterer, Kilkelly, Larrivee, Lemke, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Pouliot, Rand, Ricker, Rotondi, Rowe, Ruhlman, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Tracy, Treat, Walker, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Carleton, Clukey, Cross, Dexter, DiPietro, Donnelly, Dutremble, L.; Farnum, Farren, Foss, Gray, Greenlaw, Heino, Hillock, Hussey, Jones, Joy, Kneeland, Kontos, Kutasi, Lemont, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Michael, Murphy, Nash, Nickerson, Norton, O'Gara, Ott, Pendexter, Plourde, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Tardy, Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Winn, Young, Zirkilton.

ABSENT - Bailey, H.; Beam, Carr, Cathcart, Kerr, Libby Jack, Pendleton, Plowman, Richardson, The Speaker.

Yes, 75; No, 66; Absent, 10; Paired, 0; Excused, 0.

75 having voted in the affirmative and 66 in the negative with 10 being absent, the Order was passed.

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA, MAINE 04333

HOUSE COMMITTEE ON ELECTIONS

To: Joseph W. Mayo
Clerk of the House of Representatives
of the 116th Legislature

In compliance with the directive of the House, enclosed herewith in the form of an Order is the Minority Report of the House Committee on Elections regarding the election in House District 101.

S/Donald A. Strout, Corinth

Dated: February 17, 1993

Was read and ordered placed on file.

CONSENT CALENDAR

Second Day

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

(H.P. 19) (L.D. 21) Bill "An Act to Amend the Lounge License Provisions"

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Concerning Installation of Propane Gas Water Heaters" (H.P. 38) (L.D. 46) (H. "A" H-24 to C. "A" H-22)

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

On motion of Representative Aliberti of Lewiston, Adjourned at 8:29 p.m. until Thursday, February 18, 1993, at ten o'clock in the morning.