

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 17, 1993 to July 14, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
60th Legislative Day
Friday, May 28, 1993

Senator LUTHER of Oxford
Senator HANLEY of Oxford
Senator PINGREE of Knox

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

Prayer by Pastor Dan P. Bowers, Hope Baptist Church, Manchester.

The Journal of Thursday, May 27, 1993, was read and approved.

Sincerely,

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

Was read and ordered placed on file.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 27, 1993

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

Dear Clerk Mayo:

Please be advised that the Senate today appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes" (H.P. 1060) (L.D. 1428):

Senator MARDEN of Kennebec
Senator CONLEY of Cumberland
Senator BALDACCI of Penobscot

Sincerely,

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

Was read and ordered placed on file.

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 27, 1993

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

Dear Clerk Mayo:

Please be advised that the Senate today appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Establish a Full Employment Program as a Pilot Project in Certain Counties of the State" (S.P. 212) (L.D. 683):

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 27, 1993

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

Dear Clerk Mayo:

Please be advised that the Senate today adhered to its previous action whereby it accepted the Majority Ought Not to Pass Report on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide the Governor with a Line-item Veto (H.P. 948) (L.D. 1277).

Sincerely,

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

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-235) on Bill "An Act to Allow the Sale of Surplus Lands from the State Nursery" (EMERGENCY) (S.P. 89) (L.D. 243)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-235).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-235) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time and passed to be engrossed as amended by Committee Amendment "A" (S-235) in concurrence.

Non-Concurrent Matter

Bill "An Act to Ensure Economic Benefits from Purchases by Generators of Nuclear Power" (H.P. 289) (L.D. 376) on which the Majority "Ought to Pass" as amended Report of the Committee on Utilities was

read and accepted and the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-347) in the House on May 24, 1993.

Came from the Senate with the Minority "Ought Not to Pass" Report read and accepted in non-concurrence.

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

Representative HOLT: Mr. Speaker, I move that the House recede and concur.

Mr. Speaker, Men and Women of the House: This bill is mine, I am the prime sponsor, Representative Coles is cosponsor and in the other body, Senator Cleveland and Senator Foster.

I stayed out of this debate because as I said in committee, any time I have to go to the ladies room, people are suspecting I am going there to shut down Maine Yankee, but this bill is truly a bill about being economically prudent. It is about spending anything more than \$100 million on an aging nuclear power plant. The concern came to me because I have studied nuclear power issues over the years and followed many of the nuclear plants and their owners' activities across the country, not to mention the world.

I know this is a problem that will be coming up in many states. It is about giving the Public Utilities Commission the authority to preapprove such an enormous expenditure as over \$100 million which is nearly half of what the Maine Yankee plant cost to build in the early '70's and late '60's. The PUC has this authority already over such things as hydro facilities and other utility generation and conservation projects. Well, the power lobby doesn't want this bill obviously, thus nothing short of a major accident at Maine Yankee could win this bill in the other body. I am convinced of that after seeing the lobbying efforts going on here. This bill has been hounded since February.

The two nuclear reactor owners in this country wanted to replace large items, one a steam generator and the other a nuclear reactor vesselhead on the aging Trojan and Rowe reactors, Trogan in Washington and Rowe in Massachusetts, but without public scrutiny that came about almost by accident, it is very likely they would have gone ahead in order to keep getting back money invested. Now that is what happens with nuclear power, they make these enormous investments and they get it back when we pay for them, without much local scrutiny. In fact, the only way states can regulate nuclear power is through economics, not health and safety, but economics is the only path open to states. Well, Millstone reactor in Massachusetts, one of them, has already replaced the steam generator. We have yet to see if that will be an economic benefit for New England people.

Well, the power lobby doesn't want scrutiny. The Public Utilities Commission in Maine supported this bill even though they have a lot of work to do. They felt this was an important thing to do and the Public Advocate supported it, but without power lobby support, it is very hard to win such a bill in the other body.

The lobby also told all of us that the PUC given authority over expenditures over \$100 million that they would want to go on getting authority over \$100,000, \$10,000 — well, that's simply silly.

Another reason I believe that this bill cannot be won now is this — L.D. 376, like other even more major bills, far more major bills, were submitted before cloture and heard early on in the session. The amendment setting the major retrofit at anything above \$100 million, I was advised by experts, that \$50 million would be sensible, but about \$100 million was submitted at \$100 million as an amendment when I submitted the bill. I did this in order to satisfy the Utilities Committee Chairman from the other body and thereby gain that chairman's support. Fortunately, the House Chairman saw the economic benefit idea and supported the bill but the other body's chair changed his mind. All of this was done early on, yet it comes to us now during a time of extreme pressure on everyone and with such a snowstorm flurry of paper, such agonizing decisions we have to make about the budget.

Utility bills are technical and complex and they cannot very easily be understood. It takes a little study and we don't have time, we have enough to do studying and caring about our own bills so this is a time for high-powered lobbying and the swift killing and passing of bills. Supporters and sponsors of many bills do not have high-powered, high-paid lobbyists so we must ask supporters to concur with the other body.

Just this morning, I heard another late argument brought up that we never heard before, you didn't see on the sheets given you of information from those who don't want this bill, and that is, "Oh, didn't you understand? \$100 million — well, the power companies suggests splitting it up into \$70 million and \$30 million and getting away with murder.

The power lobby has an incredible ability to reach and to stretch and to keep reaching and stretching and I suppose that is what high-paid lobbyists are paid to do, but I want you to know, this bill will come back and the sense of it will soon be seen in other places.

I thank you for your kind support, those of you who supported us, and I move now to recede and concur with the other body.

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

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

The question would be directed to Representative Holt. You speak in favor of the bill, maybe I am mistaken but you made the motion to recede and concur, is that the motion you want even though the other body accepted the "Ought Not to Pass" Report?

The SPEAKER: Representative Rowe of Portland has posed a question through the Chair to Representative Holt of Bath who may respond if she so desires.

The Chair recognizes that Representative.

Representative HOLT: Mr. Speaker, Men and Women of the House: To recede and concur means to concur with the Senate's decision "Ought Not to Pass" and that is what I am asking us to do.

Subsequently, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Regarding the Department of Environmental Protection Rulemaking" (H.P. 861) (L.D. 1170) which was passed to be engrossed as amended by

Committee Amendment "A" (H-317) in the House on May 19, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-317) as amended by Senate Amendment "A" (S-233) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Concerning Duplicate Fees Required by the Department of Environmental Protection" (H.P. 1023) (L.D. 1375) which was passed to be engrossed as amended by Committee Amendment "A" (H-411) in the House on May 25, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-411) as amended by Senate Amendment "A" (S-230) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Make Additional Appropriations and Allocations and to Make Technical Corrections to the Laws for the Fiscal Years Ending June 30, 1993 and June 30, 1994" (EMERGENCY) (S.P. 497) (L.D. 1517) (Governor's Bill)
- In Senate, Passed to be Engrossed on May 26, 1993.
- In House, Passed to be Engrossed in concurrence.
- Recalled from Engrossing Department pursuant to Joint Order (S.P. 517)

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-229) in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON BANKING AND INSURANCE

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Banking & Insurance has voted unanimously to report

the following bills out "Ought Not to Pass":

L.D. 170 An Act to Reduce Paperwork for Health Care

L.D. 182 An Act to Implement the Recommendations of the Joint Select Committee to Study the Feasibility of a Statewide Health Insurance Program

L.D. 1206 An Act to Provide More Affordable Health Insurance and Community Rating for Individuals

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Dale McCormick
Senate Chair

S/Rep. Edward L. Pineau
House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON BUSINESS LEGISLATION

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Business Legislation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1065 An Act to Clarify the Laws Regarding Interior Design Services

L.D. 1445 An Act Relative to the Licensing and Training of Hoisting Engineers

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Alton E. Cianchette
Senate Chair

S/Rep. Annette M. Hoglund
House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON EDUCATION

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Education has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 839 An Act to Provide for the Efficient Delivery of Educational Services to Children with Special Needs

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John J. O'Dea S/Rep. Elizabeth H. Mitchell
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Energy & Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1374 An Act Requiring the Department of Environmental Protection to Adopt Rules for a Waiver of Fee and a 2-Year Extension to Low-income People in Meeting Motor Vehicle Emission Standards

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Mark W. Lawrence S/Rep. Paul F. Jacques
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON HOUSING AND ECONOMIC DEVELOPMENT

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Housing & Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1392 An Act Fostering Advantageous Job Development

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Rochelle M. Pingree S/Rep. Rita B. Melendy
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON HUMAN RESOURCES

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Human Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1205 Resolve, to Establish the Commission to Examine Alternatives to Maine's Welfare System and to Make Recommendations Concerning Its Replacement

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Judy Paradis
Senate Chair

S/Rep. Sharon Anglin Treat
House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Judiciary has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1329 An Act to Deter Deliberate Polluters
- L.D. 1373 Resolve, Creating the Court Futures Implementation Commission
- L.D. 1473 An Act to Provide Statutory Procedures for Grievances against Attorneys BY REQUEST

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Gerard P. Conley, Jr. S/Rep. Constance D. Cote
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON LABOR

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1200 An Act Concerning Unemployment Benefits for Certain School Employees

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. James R. Handy
Senate Chair

S/Rep. Richard P. Ruhlin
House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON LEGAL AFFAIRS

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on Legal Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 250 An Act to Amend the Campaign Finance Laws
- L.D. 878 An Act to Reduce the Influence of Money in Elective Politics
- L.D. 916 An Act Implementing Comprehensive Election Reform
- L.D. 1072 An Act to Reform Campaign Practices
- L.D. 1202 An Act Concerning the Tallying and Challenging of Absentee Votes
- L.D. 1226 An Act to Promote Enforcement of Laws Pertaining to Alcohol Use by Minors
- L.D. 1433 An Act to Provide for Public Finance in State Elections
- L.D. 1452 An Act Concerning the Subject Matter of Referenda

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Richard J. Carey
Senate Chair

S/Rep. Beverly C. Daggett
House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on State & Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 608 An Act Regarding Legislative Ethics
- L.D. 668 An Act to Require Legislative Oversight of Agency Rulemaking
- L.D. 851 An Act Amending the Maine Administrative Procedure Act Regarding Rulemaking
- L.D. 943 An Act to Promote Fair Contract Bidding
- L.D. 989 An Act to Limit to 5 Years Certain State Contracts
- L.D. 1496 An Act to Encourage the Involvement of Volunteers in State Government

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Georgette B. Berube S/Rep. Ruth C. Joseph
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON TAXATION

May 27, 1993

Honorable Dennis L. Dutremble, President of the Senate
Honorable John L. Martin, Speaker of the House
116th Maine Legislature
State House
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

Pursuant to Joint Rule 15, we are writing to notify you that the Joint Standing Committee on

Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 244 An Act to Establish a Sales Tax Exemption for Project Graduation Organizations
- L.D. 601 An Act to Increase the County Share of the Real Estate Transfer Tax
- L.D. 962 An Act to Establish a Job Creation and Retention Tax Credit
- L.D. 964 An Act to Allow Municipalities to Collect Service Charges on Certain Properties Exempt from Property Taxes
- L.D. 1190 An Act to Improve the Administration of the Poverty Abatement Process for Payment of Real Property Taxes
- L.D. 1253 An Act to Define Certain Municipal Service Charges or Payments in Lieu of Tax as Elements of Hospital Financial Requirements under the State of Maine Hospital Care Financing System
- L.D. 1271 An Act to Create the Tax-exempt Organization Sunshine Act of 1993
- L.D. 1288 An Act to Clarify the Responsibilities of Property Assessment Review Boards
- L.D. 1298 An Act Regarding Real Estate Tax Relief for Property Held in Trust
- L.D. 1301 An Act Concerning the Taxable Status of Leased School Property
- L.D. 1320 An Act Concerning the Requirement of Notification of Municipal Tax Liens to Mortgagees of Record
- L.D. 1346 An Act to Encourage the Use of User Fees Regarding Municipal Solid Waste Disposal
- L.D. 1370 An Act to Establish an Alternate Elderly Low Cost Drug Program
- L.D. 1377 An Act to Create an Investment Tax Credit to Encourage New Capital Investments by Maine Businesses
- L.D. 1430 RESOLUTION, Proposing an Amendment to the Constitution of Maine to Freeze the Property Taxes of Citizens Aged 65 and Older under Certain Circumstances
- L.D. 1440 Resolve, to Create the Committee to Establish a Tax Appellate System
- L.D. 1512 An Act to Authorize Optional County Sales Taxes on Certain Sales
- L.D. 1520 An Act Making Maine Income Tax a Set Percentage of the Federal Income Tax

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John E. Baldacci S/Rep. Susan E. Dore
Senate Chair House Chair

Was read and ordered placed on file.

CONSENT CALENDAR

First Day

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

(S.P. 448) (L.D. 1415) Bill "An Act to Clarify the Extent of Insurable Interests" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-234)

(S.P. 470) (L.D. 1462) Bill "An Act to Facilitate Oil Spill Cleanup Operations" (EMERGENCY) Committee on **Energy and Natural Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-236)

Under suspension of the rules, Consent Calendar Second Day notification was given, the Senate Papers were passed to be engrossed as amended in concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Modify the Fuel Clause for Electric Utilities" (H.P. 603) (L.D. 818) (C. "A" H-472)

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.

ENACTOR

Later Today Assigned

An Act Regarding Lobbying (S.P. 295) (L.D. 881) (H. "A" H-423 to C. "A" S-183)

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

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

ENACTOR

Later Today Assigned

An Act to Amend the Laws Related to Concealed Weapon Permits (H.P. 951) (L.D. 1280) (C. "A" H-402)

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

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

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Transfer the Responsibility for Recounts of Elections to the Judicial Branch (S.P. 475) (L.D. 1474) (C. "A" S-208)
TABLED - May 27, 1993 (Till Later Today) by Representative PARADIS of Augusta.
PENDING - Passage to be Engrossed.

Subsequently, was passed to be engrossed as amended by Committee Amendment "A" (S-208) and sent up for concurrence.

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

An Act to Provide Immunity for Private Physicians in Public Hospitals (S.P. 266) (L.D. 803) (C. "A" S-196)
TABLED - May 27, 1993 (Till Later Today) by Representative LIPMAN of Augusta.
PENDING - Passage to be Enacted.

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

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

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-432) - Minority (2) "Ought Not to Pass" - Committee on **State and Local Government** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of the Attorney General (H.P. 960) (L.D. 1291)
TABLED - May 27, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Motion of Representative JOSEPH of Waterville to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative Gwadosky of

Fairfield, retabled pending the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-433) - Minority (5) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of the Treasurer of State (H.P. 961) (L.D. 1292)
TABLED - May 27, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Motion of Representative JOSEPH of Waterville to accept the Minority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of the Representative from Waterville, Representative Joseph, that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-434) - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Popular Election of the Secretary of State (H.P. 965) (L.D. 1296)
TABLED - May 27, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Motion of Representative JOSEPH of Waterville to accept the Minority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of the Representative from Waterville, Representative Joseph, that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

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

Bill "An Act to Centralize Licensing for Retail Businesses" (H.P. 399) (L.D. 512) (H. "A" H-408 to C. "A" H-367)
TABLED - May 27, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Engrossed.

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

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

An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices (S.P. 225) (L.D. 696) (C. "A" S-168)
TABLED - May 27, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

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

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

Resolve, to Establish a Commission to Study Nonregulatory and Market Solutions to Environmental Issues (EMERGENCY) (H.P. 572) (L.D. 777) (C. "A" H-301 and H. "A" H-328)
TABLED - May 27, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Final Passage.

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 777 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-301) was adopted.

The same Representative offered House Amendment "A" (H-477) to Committee Amendment "A" (H-301) and moved its adoption.

House Amendment "A" (H-477) to Committee Amendment "A" (H-301) was read by the Clerk.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: This is a very innocent little amendment that removes the appointing authority from the two chairs of the Energy and Natural Resources Committee for the three legislative members and replaces it with the appointing authority being the Speaker of the House and the President of the Senate.

Little did we know that it would cause any consternation on anybody's part but we are informed that it did and we are happy to rectify the situation.

Subsequently, House Amendment "A" (H-477) to Committee Amendment "A" (H-301) was adopted.

Committee Amendment "A" (H-301) as amended by House Amendment "A" (H-477) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-301) as amended by House Amendment "A" (H-477) thereto and House Amendment "A" (H-328) in non-concurrence and sent up for concurrence.

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

An Act Regarding County Contingent Account Limits

(S.P. 286) (L.D. 856) (C. "A" S-116)
 TABLED - May 27, 1993 (Till Later Today) by
 Representative GWADOSKY of Fairfield.
 PENDING - Passage to be Enacted.

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

TABLED AND TODAY ASSIGNED

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

An Act to Enhance Voters' Rights in Budget
 Approval of School Districts (EMERGENCY) (MANDATE)
 (S.P. 252) (L.D. 771) (H. "A" H-407 and H. "B" H-416
 to C. "A" S-163)
 TABLED - May 27, 1993 by Representative GWADOSKY of
 Fairfield.
 PENDING - Passage to be Enacted.

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

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

An Act to Amend the Group Life Insurance Laws
 Administered by the Maine State Retirement System
 (H.P. 871) (L.D. 1180) (C. "A" H-368)
 TABLED - May 27, 1993 by Representative GWADOSKY of
 Fairfield.
 PENDING - Passage to be Enacted.

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

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

HOUSE DIVIDED REPORT - Majority (9) "Ought Not
 to Pass" - Minority (4) "Ought to Pass" as amended
 by Committee Amendment "A" (H-474) - Committee on
 Taxation on RESOLUTION, Proposing an Amendment to
 the Constitution of Maine to Require a 2/3
 Affirmative Vote of the Entire Elected Membership of
 the Legislature to Increase State Income or Sales Tax
 (H.P. 1019) (L.D. 1365)
 TABLED - May 27, 1993 by Representative ZIRNKILTON of
 Mount Desert.
 PENDING - Motion of Representative NADEAU of Saco to
 accept the Majority "Ought Not to Pass" Report.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies
 and Gentlemen of the House: The sales tax and the
 income tax are taxes which somehow affect every
 individual in this state. Yesterday, the U.S. House
 of Representatives voted to increase the taxes for

every American in one way or another. Last year, the
 voters of this state voted by referendum to hold us
 to a higher standard if we wanted to pass on any
 mandates, any costs, to our municipalities. They
 said, if you want to pass a cost onto us and you
 don't want to pay for it, then you must do so by a
 two-thirds vote of your members.

Right now, there are a number of states which
 require some kind of super majority vote in order to
 raise taxes. California, Arkansas, Delaware,
 Louisiana, Mississippi, South Dakota and others who
 are now considering it believe that, if we are going
 to increase our income taxes, our sales taxes, and in
 some states, any tax at all, they think it should
 require some kind of super majority which would
 assure accountability to the people of that state.

All this bill does is ask to send the question
 out to the people to ask them whether or not they
 believe that any increase in the sales tax or the
 income tax should have the bipartisan support of
 two-thirds of the members of this body to assure
 accountability and to assure to the people of this
 state that the overwhelming majority of the members
 of this body believe that that tax is necessary for
 the overall well being of everyone.

I hope that you will consider giving the people
 the opportunity to choose whether or not they believe
 that a tax increase in the sales or income tax
 deserves to have the affirmative vote of two-thirds
 of our members.

Mr. Speaker, I ask for the yeas and nays.

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

Representative NADEAU: Mr. Speaker, Men and
 Women of the House: I would like to address this
 issue on a couple of fronts, the first one being we
 were elected by the people to be their
 Representatives. This is not a pure democracy, this
 is a Democratic/Republican form of government. A
 Democratic/Republican form of government means
 exactly the reason we are here. If you wanted to
 have one giant town meeting, that could be a
 discussion on another day. That is my first point.

The second point is that in most situations a
 balanced budget document will inevitably come out of
 this body and will probably require a two-thirds
 vote. I have never seen a budget that wasn't an
 emergency measure so there is a two-thirds involved
 in that any way.

If the Chief Executive Officer of this state
 doesn't like the document he or she sees, the veto
 will require a two-thirds, so, that's already built
 in.

I suspect that this two-thirds requirement would
 also allow the possibility, actually a strong
 possibility, of the same kind of gridlock we had in
 the summer of 1991. Certainly this Representative,
 nor do I suspect many of my colleagues, if not most,
 do not want to revisit 1991 where we went through a
 number of roll calls until some compromise was worked
 out. It sounds to me like something the U.S. Senate
 does. Some particular individual doesn't like what
 is being proposed, then they go into a filibuster and
 nobody wins in that situation. The people lose, the
 people in the chamber lose, and I guess ultimately
 the taxpayers lose because every minute extra that we
 are here and don't necessarily need to be here cost
 that amount of money.

I think this two-thirds requirement is, as many
 members of the Republican party have said for a

while, a "feel good" bills, this is a "feel good" bill. It doesn't really do anything that we can't already do.

I would certainly urge you to think hard on this bill and accept the Majority "Ought Not to Pass" Report.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the Representative's point, and I agree, this is a "feel good" bill, it will help the people of this state to feel good knowing that it will require two-thirds of the members of this body to raise their taxes if in fact they go ahead and pass this initiative. The debate is on the merits of whether or not the referendum should pass, that is not the issue that is before us.

The issue that is before us is whether or not we should give the people of this state the right to choose whether or not they want to hold us to a higher standard of accountability, accountability that would require two-thirds of us to vote in the affirmative to raise the income or the sales tax. Now, we have all kinds of things that go through here that require two-thirds. We have emergency enactors that require two-thirds of us to go ahead and get it out there before 90 days after the session has come forward. We have the mandate situation which requires two-thirds of us to vote. If we are going to pass a cost of one dollar, one dollar, onto our towns, then it is going to require two-thirds of us to go ahead and vote in the affirmative if we want to go ahead and force that mandate. Yet, if we want to raise the income tax or the sales tax, something that could be hundreds of millions of dollars, I certainly think, and I think the people of this state would agree, that such an increase deserves to have a two-thirds vote.

The question here is not whether or not you agree with that, the question is whether or not you want to give the people of this state the right to choose whether or not they want to hold us to that level of accountability, that is the question.

At this point, the Speaker appointed the Representative from Fairfield, Representative Gwadosky, to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: It is a rare opportunity, I suppose, for me to give some members of the House an educational lesson on the Maine Constitution. Before I do however, I need to point out that since I have been a member of this body, the income and sales tax in adjustment to the budget are always done at the latter part of the year and always occur just before July 1st and this year will be no different. That

always requires two-thirds because we do not have continued resolution ability in this state and it means that the increase in the sales tax, if it is going to occur, is going to be by two-thirds.

The historical point of view and from a Constitutional point of view, what disturbs me is that this bill takes away the rights of citizens. It takes away, it doesn't give, because the Maine Constitution carries the provision that any bill enacted by this legislature that does not go into effect immediately can be suspended by the voters of Maine by petition within 90 days of the bill becoming law. This would violate that and in effect would create further problems. So, if this legislature were to choose to enact a tax prior to and with only a majority vote, which it could do but it can't do right now because we don't even have a budget, but if it were, then what would happen is that the citizens of Maine, right now under the existing Constitution, could immediately start a petition drive and suspend that Act and then it would be suspended until there is a vote of the voters by referendum in November.

That is the check and balance which the forefathers drafted into the Constitution. I, for one, do not want to be a part of the plan to take it away. I certainly hope that the Majority Report is accepted.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Mount Desert, Representative Zirnkilton.

Representative ZIRNKILTON: Mr. Speaker, I wish to pose a question through the Chair to the Representative from Eagle Lake, Representative Martin, if I could.

Mr. Speaker, Representative Martin, you answered one question for me and that is the fact that an increase in the sales tax or the income tax or, indeed, any other tax could occur with a simple majority vote.

I will not pretend for a moment to have anywhere near the level of knowledge that you have of the Constitution of this state or any other state for that matter but I would ask you to explain to me and to the members of this body why other states are able to hold their membership to a super majority, a higher level of accountability when it comes to an increase (in the case of some states) in any tax, any tax at all? In fact, one state requires that an increase in taxes be done by referendum, not by majority vote of its legislature. I just simply cannot understand how that increased accountability, the assurance of bipartisan support, is going to take away the power of the people. Perhaps I didn't clearly understand your first explanation.

The SPEAKER PRO TEM: The Representative from Mount Desert, Representative Zirnkilton, has posed a question through the Chair to the Representative from Eagle Lake, Representative Martin, who may respond if he so desires.

The Chair recognizes that Representative.

Representative Martin: Mr. Speaker, Ladies and Gentlemen of the House: I would be more than happy to respond to the question.

First of all, Maine is one of the few states in the country where people have the right to prevent legislation from being implemented. That's the first safety.

Second, there is at least one state where the Governor does not have veto power at all (that is really something that I have thought about in this

state if we wanted to restore legislative authority) that, of course, being one of the Carolina's. There are other states that have totally different Constitutions that really have no bearing on ours and nothing that you can compare it with. If you look at California's Constitution, for example, which I know a little bit about, that one basically allows the laws of the state to become effective immediately. Maine is also one of those states where bills, in order for them to become effective immediately, requires a two-thirds vote of both bodies. That is very uncommon across this country. In most states, the bill becomes law when it is signed by the Governor or it has the date of which it is going to be implemented directly into an Act as the United States Congress does, so the two-thirds is something which is very uncommon.

I can't remember the number of states offhand but it is less than a dozen that has that, most of them being New England states and, of course, our Constitution is pretty much identical to that of the Commonwealth of Massachusetts where most of the people who drafted our Constitution came from. So, you can't make simply a comparison of one item and say that it is going to be identical to other Constitutions elsewhere.

Again, I repeat to answer the question succinctly and not like a university professor I suppose, one, the Constitution of Maine is different than any other.

Two, we have a requirement that allows the voters within 90 days to suspend Acts.

Three, we have a prohibition against laws becoming effective immediately unless adopted by a two-thirds vote of both Houses.

Fourth, we have obviously the right of veto.

Representative Zirnkilton of Mount Desert was granted permission to speak a third time.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I thank the Representative from Eagle Lake for the lesson. I hope that I learned something from it.

I will point out with regard to our Constitution that, unfortunately as of about a half hour ago, we, once again, failed to become the 45th state in this nation that offers our Governor a line-item veto, which, of course, would have given an extra measure of accountability with the budget process. I had hoped that this might contribute to that as well.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Since this relates directly or indirectly to the line-item veto, I would be more than happy to discuss that.

Remember that this state and the Governors of all states, except one, have the right of veto. My concern about changing the Maine Constitution is twofold: first, it is that of giving the Executive more authority than they already have in this state, whether it be a Republican or a Democrat or Independent, that the legislative authority over the years has slowly been chipped away and chipped at and chipped at to a point where in effect by Executive Order or simply approval at the end of a session (even during a session) by transfer of funds that the Governor in effect can run state government without the legislature. Dollars can be allocated within departments by Executive Order and, if you were to look at the Executive Orders that are authorized in this state on a yearly basis, they would exceed, they

would exceed I repeat, six feet in height. As a matter of fact, I reviewed five or six just this week.

Secondly, I think we need to remember that the present Governor has the right to veto any bill and does. We saw yesterday where there was a veto by the Chief Executive because of the appointment power and the entire bill got killed. That, to me, is a far greater threat to a legislature than simply a line-item.

My greater concern, however, is drafting language about line-item which is clear and doesn't do what the Supreme Court eventually did in at least one state in this country in the last two years and that is, a Governor of this nation in the midwest took a line-item veto and used it to line-item words or parts of words or sentences and parts of sentences and reversed the entire intent of what was the original bill. Later on, he added to it and signed the bill and it became law. It was appealed to the Wisconsin Supreme Court and the Wisconsin Court said that the legislature and the people having given the line-item veto did not restrict whether or not it was one word, one line, one letter and the entire intent, the entire intent, was completed destroyed. So, automatically what you have is the potential, if it is not drafted properly or you have a Supreme Court that decides it wants to rewrite a Constitution, to give them the perfect right to do that.

That is why I couldn't support that argument and I haven't supported it for a Democratic Governor, a Republican Governor or Independent Governor, simply because the legislative power ought to be there and it ought to be a check on the Chief Executive.

In this state, quite frankly, the power lies in the Chief Executive. The legislature is a rubber stamp most of the time, a hindrance sometimes, and when we go home, the departments run the state because they have the right to sign or change orders and, on top of that, we give them the right to write rules and regulations without being able to suspend them.

Men and Women of this House, someday we will wake up and we will wonder why we have in effect allowed a dictatorship to be created and you will know why if you look at the changes that have been made in the State Constitution in the last 30 years.

Representative Zirnkilton of Mount Desert was granted permission to speak a fourth time.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: First of all, let me say what a privilege it is to have the Representative from Eagle Lake come down from the rostrum. As always, you do an excellent job representing your viewpoint, which for me, a number of years have gone by since I last had that opportunity to have an exchange.

I wanted to ask the Representative whether or not he was aware that the line-item issue before us did not allow the Governor the opportunity to substitute language such as is allowed in Hawaii and whether or not the Representative was also aware that it did not allow the Governor to shift items or increase appropriations elsewhere, decrease the allocations elsewhere? Perhaps the Representative was confusing it with the line-item options which were available in other states.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Wentworth, and would inquire for what purpose the Representative rises?

Representative WENTWORTH: A point of order, Mr. Speaker. Is the question that was just asked germane to the issue before us?

The SPEAKER PRO TEM: The Chair would declare that it is in fact germane to the position before us. The debate, as the Representative fully knows, has spread beyond the issue in and of itself of the topic and the Chair would allow the question to be asked and would allow the Representative from Eagle Lake, Representative Martin, to respond if he so desires.

The Chair recognizes that Representative.

Representative MARTIN: Mr. Speaker, Members of the House: I have read and did read the language. As a matter of fact, the Representative from Mount Desert asked me to read it and I did.

I could make this a question in return to the Representative from Mount Desert but I won't prolong the discussion but I will make a statement.

I do not believe that he or I or any member of this legislature, future or past, can ever determine or know what the Supreme Court of this state or any other state will ever decide.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I would like to return the debate to the issue at hand.

We live in a system, as the Representative from Saco noted, where a Democratic Republic wanted a representative democracy. A representative democracy means that we are elected to represent the people's will, that the majority of this body and the majority of the other body represents the people's will.

A proposal like the one before us today would prohibit a majority, a simple majority, from representing the people's will, would thwart the people's will.

We don't have a town meeting style of government at the state level because it simply is impractical but imagine if this same kind of requirement was required for town meetings to pass a budget, that would be how local taxes were determined, imagine the chaos, the recrimination and the bitterness that would occur at the local level. Imagine the possibility of a town responsibly governing itself if two-thirds of the people at the town meeting voted for a budget before it passed.

Moreover, the Representative from Mount Desert said that this is intended to improve our accountability — this has nothing whatsoever to do with our accountability to the people who elected us. We are accountable through the election process. This bill does not make any change in the election process on a system by which the people's representatives are chosen to do their business.

What the amendment intended to do is to make it more difficult for the majority of the people's Representatives to conduct the business of the people.

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

Representative BARTH: Mr. Speaker, I would like to pose a question to the good Representative from Eagle Lake, please.

The question is this, if the citizens can within 90 days get signatures, how many signatures are needed and how realistic is that if that number is a significant number?

The SPEAKER PRO TEM: The Representative from Bethel, Representative Barth, has posed a question

through the Chair to the Representative from Eagle Lake, Representative Martin, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MARTIN: Mr. Speaker, Members of the House: The question, I am sure, is directed on the issue of the present requirement, for example, to initiate a bill. We have changed in this legislature the initiative process so many times that it would be hard-pressed for most people in this state, whether they be legislators or political scientists, to tell you what that is. Very quickly, it is 10 percent of the gubernatorial vote. Of course, there is a certification process now that is very tough. We have not, however, tinkered quite as much with the suspension ability of the voters. The 10 percent remains but it is very easy to get. As a matter of fact, you can pretty much get it at a shopping mall in this state on any weekend. It requires 10 percent and then, at that point, it is immediately suspended.

I think if anyone wanted to, any organized group, and of course as we all know any non-tax group or whatever they want to call themselves by whatever name, those present or past, in fact could do that.

I would point out to you that this has actually happened in my history being in the legislature where the voters of Maine in fact did that. There are a number of instances in our history where that has occurred. I would point out also that there was a referendum in this state on the income tax after it was adopted by the legislature back in the '70's and it was led by someone, I believe, from Mount Desert by the name of Mr. Lamb. That drive was put in place and the voters, by two to one, voted to keep the income tax.

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

Representative MARSHALL: Mr. Speaker, I would like to pose a question through the Chair to the Representative from Eagle Lake.

If a bill or a tax was enacted by a two-thirds vote of the legislature, would that negate the ability of the citizens to bring about a referendum to undo it?

The SPEAKER PRO TEM: The Representative from Eliot, Representative Marshall, has posed a question through the Chair to the Representative from Eagle Lake, Representative Martin, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MARTIN: Mr. Speaker, Members of the House: The answer is no, it would not negate it because the voters always have the right to petition by referendum for statutory initiatives in this state. The only thing that they cannot do is change the Constitution by petition through that process since we don't have Constitutional initiative.

I would point out one other thing only because I got a note to that effect, but the Representative from Palmyra, Representative Tardy, asked me if I was charging by the hour or by credit hour — I am not charging either at this point but the Representative from Palmyra, Representative Tardy, can make donations to the proper campuses in this university system and it will be accepted.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, I request permission to pose a question through the Chair, please.

I suspect that this will be responded to by the Representative from Eagle Lake but it is a general question.

I think this debate is very enlightening and informative and probably on a higher level than much of our debate.

I think the Representative from Eagle Lake makes an excellent point on the people's repeal position and I must grudgingly accord him a victory on that one but I would ask the following question.

We assume and I think make a logical nexus in our mind with emergency legislation requiring the two-thirds majority and that's what makes it an emergency and would, therefore, exempt it from the people's veto provision. My question is that it is not necessary that a two-thirds vote bill such as proposed by Representative Zirnkilton carry emergency preamble language and if it did not, would it not then still be subjected to the people's veto provision since it would not be an emergency legislative piece as we know it?

The SPEAKER PRO TEM: The Representative from Falmouth, Representative Reed, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: That's a little more confusing to respond to. The Constitution in the state basically says that bond issues, for example, are voted on by two-thirds of the members present and voting in both Houses. Emergency enactors require two-thirds of those of the entire elected membership and, even if you have five vacancies in this House, the figure is still 101 based on the Constitution.

A bill which has an emergency preamble requires two-thirds of the entire elected membership and would at that point not be subject to the rejection but could be subject to the statutory initiative process. For example, our Constitution specifically denies the right of this legislature from selling land by two-thirds. It is the only thing by which we cannot by two-thirds do and that goes back, historically, to when this legislature was cutting deals and selling land for five cents an acre. Finally, the voters got upset enough that they changed enough membership in the legislature to basically change the Constitution to prevent the legislature from ever selling any state land that it acquires by gift or purchase or anything else except by majority vote. So, we have to pass it by majority and that gives the voters the right to be able to prevent it from being implemented. They then have the right to suspend and then to vote if they so desire.

Specifically, I think your question deals with what happens in terms of whether or not — if we pass something by two-thirds and it does not have a preamble, it still is not an emergency measure and the rights are not suspended. It does not go into effect immediately because the Constitution specifically says that in order for something to be an emergency, we must declare it an emergency in a preamble and enacted by the necessary two-thirds.

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

Representative KETTERER: Mr. Speaker, Ladies and Gentlemen of the House: I am happy to have the opportunity to speak after our venerable and

long-term Speaker, the Representative from Eagle Lake. I have that opportunity very rarely so, of course, I want to exercise it.

I do not believe that every time the wind blows that we should change the Constitution of the State of Maine. It is a venerable document and should not be toyed with. I recognize the long-standing tradition of people in both Houses, both branches, to change statutes anytime they want, to put a sunset on things if they aren't sure it is going to fly and it makes them feel better about doing that and that, evidently, has been the custom or practice long before I got here. I guess that will be the custom long after I am gone. I don't believe the same should be true with the State Constitution. That document is not something that should be changed every time it might be politically wise or politically correct to do so.

I would urge you not to make this Constitutional change. You may hear me say that again before we are finished in June or July or whenever we leave here.

In addition, I would like to point out that the proposed legislative document calls for a two-thirds vote in order to increase state and income tax. It does not require the two-thirds vote for reduction. There are a number of people who live in the State of Maine, it may be a minority but they are a significant minority, who do not want a reduction in taxation, not because they like to pay taxes, but because they know that a reduction in taxation means a substantial reduction in state services that they need and want. If this bill requires a two-thirds vote to raise, it should require, in order to have symmetry, a two-thirds vote to lower, which it does not. It also assumes that it is important to make it harder to increase taxation. The flip side of that coin is quite naturally that it makes it easier to maintain the current level of taxation. That assumes that the current level of taxation is appropriate, is fine, is fair and reasonable. I know better and I think you know better also.

In conclusion Mr. Speaker, I would simply like to add that I disagree with the Speaker pro tem and agree with Representative Wentworth that the prior discussion regarding line-item veto in the middle of the discussion of this L.D. was completely out of order and I just wanted to say that for the Record. I think we do ourselves a disservice when we permit ourselves to get off track and debate other collateral issues that are not before us, even with the urgency that we need to do here and everybody in their seats and everybody within the sound of my voice knows exactly what that is.

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

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

A vote of the House was taken and more than

one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Nadeau of Saco that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 151

YEA - Adams, Ahearne, Aliberti, Anderson, Bailey, R.; Barth, Beam, Birney, Bowers, Brennan, Bruno, Cameron, Carleton, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Daggett, Donnelly, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Gamache, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hatch, Heesch, Heino, Hoglund, Holt, Hussey, Jacques, Johnson, Joseph, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Lemont, Libby James, Lindahl, Lord, Marsh, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Paradis, P.; Pendleton, Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Vigue, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, H.; Bennett, Campbell, Clukey, Coffman, Cross, Dexter, Foss, Hillock, Kutasi, Lipman, Look, MacBride, Marshall, Michael, Murphy, Ott, Pendexter, Plowman, Robichaud, Simoneau, Stevens, A.; Taylor, Tufts, Whitcomb, Young, Zirnkilton.

ABSENT - Caron, Carr, DiPietro, Dore, Gean, Hichborn, Jalbert, Libby Jack, Small, Spear, Thompson, Treat, True.

Yes, 109; No, 29; Absent, 13; Paired, 0; Excused, 0.

109 having voted in the affirmative and 29 in the negative with 13 absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

BILL HELD

Bill "An Act to Minimize Electric Rates" (S.P. 307) (L.D. 940)

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-159) on May 25, 1993.

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (S-159) as amended by House Amendment "A" (H-468) thereto in non-concurrence.

HELD at the request of Representative KONTOS of Windham.

Representative Kontos of Windham moved that the House reconsider its action whereby L.D. 940 was passed to be engrossed.

The same Representative moved that L.D. 940 be tabled one legislative day.

The same Representative withdrew her motion to table one legislative day.

Subsequently, the House reconsidered its action whereby L.D. 940 was passed to be engrossed.

On further motion of the same Representative, the

House reconsidered its action whereby Committee Amendment "A" (S-159) as amended by House Amendment "A" (H-468) thereto was adopted.

On further motion of the same Representative, tabled pending adoption of Committee Amendment "A" (S-159) as amended by House Amendment "A" (H-468) thereto and specially assigned for Tuesday, June 1, 1993.

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

SENATE PAPERS

The following Joint Order: (S.P. 521)

ORDERED, the House concurring, that Bill, "An Act to Amend the Laws Governing the Conversion of Fuel Systems" H.P. 284, L.D. 371, and all its accompanying papers, be recalled from the Engrossing Department to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

COMMUNICATIONS

The following Communication: (S.P. 518)

116TH MAINE LEGISLATURE

May 27, 1993

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Walter E. Travis of Hampden for appointment and Elizabeth B. Noyce of Bremen for reappointment to the Maine Maritime Academy Board of Trustees.

Pursuant to P.L. 1975, Chapter 771, Section 428, these nominations will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Education.

Was Read and Referred to the Committee on Education in concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 520)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, June 1, 1993, at three o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

The Chair laid before the House the following matter: An Act to Amend the Group Life Insurance Laws Administered by the Maine State Retirement System (H.P. 871) (L.D. 1180) (C. "A" H-368) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Chonko of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 1180 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-368) was adopted.

The same Representative offered House Amendment "A" (H-469) to Committee Amendment "A" (H-368) and moved its adoption.

House Amendment "A" (H-469) to Committee Amendment "A" (H-368) was read by the Clerk and adopted.

Committee Amendment "A" (H-368) as amended by House Amendment "A" (H-469) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-368) as amended by House Amendment "A" (H-469) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Provide Immunity for Private Physicians in Public Hospitals (S.P. 266) (L.D. 803) (C. "A" S-196) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Lipman of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 803 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-480) and moved its adoption.

House Amendment "A" (H-480) was read by the Clerk.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I would ask you to vote against this amendment for several reasons. If I am reading

it correctly, the bill itself addresses what we would consider an access problem. It would provide that private physicians, in this case I think you are thinking mostly of residents in training doing their mental health residency, have the same immunity that physicians who work in institutions have. It is an access problem in two ways. First, the institution needs the residents to come to their institution as well as to take care of the mental health patients as well as the residents need the experience. I think that this is a perfect example of tort reform, if you want to call it that.

What this amendment is doing is that it would only give them immunity if they were within the institution. I think it flies in the face of the fact that the movement toward mental health is to be taking care of patients in private community hospitals and I think that this bill is an access issue. I would ask you to vote against it.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I thought we were curing a technical problem, but I guess I should address the bill.

The bill came to the Judiciary Committee and Dr. Jacobsohn expressed that there was a problem, that if they hired residents and other private practitioners on a contract basis to come to the mental health institution that they needed immunity because some of them didn't carry malpractice insurance.

We all agreed and unanimously it came out of committee. What we didn't realize that we had done in the bill, and the reason we drafted the technical amendment, was that if a person who was an AMHI or BMHI patient, went to the Kennebec Valley Medical Center for surgery and during the process of the surgery, a sponge or some other thing happened to them, that we were providing immunity to the hospital and the doctors in the hospital. They have insurance and that was not the intention of the bill. This amendment specifically limits the bill to the purpose for which it was provided that, if some resident or some other person contracts with the institution and has to go in there to perform services, then they have the immunity and are subject to the Municipal Tort Claims Act. We didn't want to — I also spoke with the sponsor about the bill — to provide a blanket immunity so that these patients from AMHI (wherever they go to be treated) would be provided immunity under the Tort Claims Act to the hospitals where they were being treated.

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

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: This amendment also does not protect the physician in a community hospital if he is providing psychiatric care. I think that is a disservice to the mental health community to limit access to physicians. We all know, certainly the Human Resource Committee, that we need more physicians to be taking care of these patients.

I understand what the Representative from Augusta said if he is in there for other reasons, but what this amendment does is it does not cover the fact that, if the patient is in there for psychiatric or mental health services, that he is not afforded the same immunity that a physician who works for a public institution has.

I think that the amendment is not something that serves the mental health community correctly because it does not address the fact that there are mental health patients in community hospitals getting mental health services.

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

Representative CATHCART: Mr. Speaker, Men and Women of the House: I rise to ask you to vote in favor of this amendment. As Representative Lipman has explained, this is a bill that was a unanimous report from the Judiciary Committee and this is a technical amendment. I don't think that it is the time here in this floor debate to go into issues of immunity. It is a bill that we worked on thoroughly and voted on unanimously and this amendment will just clarify it.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-480). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

64 having voted in the affirmative and 23 in the negative, House Amendment "A" (H-480) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-196) and House Amendment "A" (H-480) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Amend the Laws Related to Concealed Weapon Permits (H.P. 951) (L.D. 1280) (C. "A" H-402) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Daggett of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 1280 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-402) was adopted.

The same Representative offered House Amendment "A" (H-479) to Committee Amendment "A" (H-402) and moved its adoption.

House Amendment "A" (H-479) to Committee Amendment "A" (H-402) was read by the Clerk and adopted.

Committee Amendment "A" (H-402) as amended by House Amendment "A" (H-479) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-402) as amended by House Amendment "A" (H-479) thereto in non-concurrence and sent up for concurrence.

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

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act Regarding Family Leave" (H.P. 318) (L.D. 406) have had the same under consideration and ask leave to report:

That they are unable to agree.

(Signed) Representative OLIVER of Portland, Representative KONTOS of Windham, and Representative LIBBY of Buxton - of the House.

Senator CIANCHETTE of Somerset, Senator CAREY of Kennebec, and Senator BEGLEY of Lincoln - of the Senate.

The Report was read and accepted. Sent up for concurrence.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (S-239) on Bill "An Act to Update and Clarify Certain Provisions of Fish and Wildlife Laws" (S.P. 243) (L.D. 736)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-239).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-239) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-239) in concurrence.

Non-Concurrent Matter

An Act to Amend Certain Corporate Laws (S.P. 455) (L.D. 1422) which was passed to be enacted in the House on May 27, 1993.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-200) in non-concurrence

The House voted to recede and concur.

Reference is made to (S.P. 212) (L.D. 683) Bill "An Act to Establish a Full Employment Program as a Pilot Project in Certain Counties of the State"

In reference to the action of the House on Thursday, May 27, 1993, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative RUHLIN of Brewer
Representative GEAN of Alfred
Representative STROUT of Corinth

(Off Record Remarks)

On motion of Representative Erwin of Rumford,
Adjourned at 10:15 a.m. until Tuesday, June 1,
1993, at three o'clock in the afternoon pursuant to
Joint Order (S.P. 520).
