

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
66th Legislative Day
Tuesday, June 8, 1993

Maine State Senate
Augusta, Maine 04333

June 4, 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 Indefinitely Postponed Bill "An Act to Improve Local Control over Liquor Licensing" (H.P. 589) (L.D. 793) and all accompanying papers.

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

June 4, 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 Passed to be Engrossed as Amended by Committee Amendment "A" (S-183) as Amended by Senate Amendment "B" (S-278) thereto, Bill "An Act Regarding Lobbying" (S.P. 295) (L.D. 881).

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

June 7, 1993

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

Dear Clerk Mayo:

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

Prayer by the Reverend William M. Bigelow, Jr., the Union Church of Northeast Harbor and Union Congregational Church of Seal Harbor.

The Journal of Monday, June 7, 1993, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

June 7, 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 insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Protect Private Property" (H.P. 514) (L.D. 672).

The President appointed on the part of the Senate the following:

Senator BERUBE of Androscoggin
Senator CIANCHETTE of Somerset
Senator CARPENTER of York

Sincerely,

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

Was read and ordered placed on file.

Reference is made to (H.P. 514) (L.D. 672) Bill "An Act to Protect Private Property"

In reference to the action of the House on June 7, 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 COTE of Auburn
Representative FARNSWORTH of Hallowell
Representative STROUT of Corinth

The following Communication:

Please be advised that the Senate on June 4, 1993 adhered to its previous action whereby it Passed to be Engrossed as Amended by Committee Amendment "A" (H-242) as Amended by Senate Amendment "B" (S-285) thereto, Bill "An Act to Ensure Integrity in Maine Government by Prohibiting Involvement of Constitutional Officers and the State Auditor in Political Action Committees" (H.P. 613) (L.D. 828).

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

June 7, 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 Passed to be Engrossed as Amended by Committee Amendment "B" (H-558), Bill "An Act to Repeal the Laws Allowing State Agencies to Adopt Rules Having the Force of Law" (H.P. 777) (L.D. 1050).

Sincerely,

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

Was read and ordered placed on file.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

In Memory of:

Samantha Michelle Merrill, of Portland, who died on June 5, 1993. Samantha was the daughter of Philip Merrill and Linda Merrill-Deetjen. Samantha would have graduated from Deering High School in Portland on June 8th. She was a straight A student and editor of her high school literary magazine. She won academic awards for her math and writing achievements. Samantha was a tremendously gifted and thoughtful individual with an engaging, vivacious manner. Samantha will be sadly missed by her family and many friends; (HLS 479) by Representative ROWE of Portland. (Cosponsors: Senator BRANNIGAN of Cumberland, Speaker MARTIN of Eagle Lake, President DUTREMBLE of York)

On motion of Representative Townsend of Portland, was removed from the Special Sentiment Calendar.

Was read and adopted and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Modify Various Licensing Board Laws" (S.P. 490) (L.D. 1501) (S. "A" S-268, S. "C" S-293 and S. "D" S-305 to C. "A" S-252; S. "A" S-294)

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

PASSED TO BE ENACTED

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds for Assistance to Maine Businesses (H.P. 1148) (L.D. 1547)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 78 voted in favor of same and 28 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

Constitutional Amendment

Later Today Assigned

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) (C. "A" H-434)

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

On motion of Representative Gwadnosky of Fairfield, tabled pending final passage and later today assigned.

ENACTOR

Emergency Measure

Later Today Assigned

An Act Concerning Technical Changes to the Tax Laws (S.P. 182) (L.D. 596) (C. "A" S-277)

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

Emergency Measure

Later Today Assigned

An Act Related to Lottery Machines (H.P. 159) (L.D. 211) (S. "A" S-190 and S."B" S-283 to C."A" H-319)

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

Emergency Measure

Later Today Assigned

An Act to Encourage Implementation of Total Quality Management Procedures in the Executive Branch of State Government (H.P. 1142) (L.D. 1542) (Governor's Bill) (C. "A" H-581)

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

Emergency Measure

(Reconsidered)

Resolve, to Abolish the Department of Human Services and the Department of Mental Health and Retardation and Create a New Department of Health and a New Department of Children and Families (EMERGENCY) (H.P. 1112) (L.D. 1508) (H. "A" H-600 to C. "A" H-516)

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

On motion of Representative Treat of Gardiner, under suspension of the rules, the House reconsidered its action whereby L.D. 1508 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-516) was adopted.

The same Representative offered House Amendment

"B" (H-630) to Committee Amendment "A" (H-516) and moved its adoption.

House Amendment "B" (H-630) to Committee Amendment "A" (H-516) was read by the Clerk.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: This amendment just clarifies that presiding officers and the Governor select the legislative appointees to this transition team that would develop the implementing legislation in this bill.

Subsequently, House Amendment "B" (H-630) to Committee Amendment "A" (H-516) was adopted.

Committee Amendment "A" (H-516) as amended by House Amendments "A" (H-600) and "B" (H-630) thereto was adopted.

The Resolve was passed to be engrossed as amended by Committee Amendment "A" (H-516) as amended by House Amendments "A" (H-600) and "B" (H-630) thereto in non-concurrence and sent up for concurrence.

ENACTOR

Emergency Measure

Later Today Assigned

Resolve, Authorizing the Ellsworth School Department to Transact a Land Exchange to Avoid Wetlands and Ledge Discovered During Project Development of the New Ellsworth High School (S.P. 523) (L.D. 1545) (S. "A" S-273)

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

On motion of Representative Paradis of Augusta, tabled pending final passage and later today assigned.

PASSED TO BE ENACTED

An Act Related to the Adoption of Municipal Ordinances and Comprehensive Plans and to Revise Notice Requirements for Certain Zoning Changes (H.P. 864) (L.D. 1173) (S. "C" S-280 to C. "A" H-343)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Emergency Measure

(Reconsidered)

An Act to Consolidate All Substance Abuse Programs within the Office of Substance Abuse (H.P. 1099) (L.D. 1486) (C. "A" H-563)

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

On motion of Representative Treat of Gardiner, under suspension of the rules, the House reconsidered its action whereby L.D. 1466 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-563) was adopted.

The same Representative offered House Amendment "A" (H-631) to Committee Amendment "A" (H-563) and moved its adoption.

House Amendment "A" (H-631) to Committee Amendment "A" (H-563) was read by the Clerk.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: Again, this is another technical amendment which clarifies the language in the bill and doesn't change a single thing.

Subsequently, House Amendment "A" (H-631) to Committee Amendment "A" (H-563) was adopted.

Committee Amendment "A" (H-563) as amended by House Amendment "A" (H-631) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-563) as amended by House Amendment "A" (H-631) thereto in non-concurrence and sent up for concurrence.

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:

An Act to Ensure Implementation of the Federal Clean Air Act Amendments of 1990 (H.P. 963) (L.D. 1294) (C. "A" H-534)
 TABLED - June 7, 1993 (Till Later Today) by Representative JACQUES of Waterville.
 PENDING - Passage to be Enacted.

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

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

An Act Related to the Site Location of Development Laws (H.P. 1105) (L.D. 1492) (C. "A" H-532)
 TABLED - June 7, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
 PENDING - Passage to be Enacted.

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

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

An Act Concerning Stalking (H.P. 1147) (L.D. 1546)
 TABLED - June 7, 1993 (Till Later Today) by Representative PARADIS of Augusta.
 PENDING - Passage to be Enacted.

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

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

Bill "An Act to Amend the Motor Vehicle Emission Inspection Program" (H.P. 1005) (L.D. 1351)
 - In House, Passed to be engrossed as amended by Committee Amendment "A" (H-537) as amended by House Amendments "A" (H-580) and "B" (H-583) thereto on June 3, 1993.
 - In Senate, Passed to be engrossed as amended by Committee Amendment "A" (H-537) as amended by House Amendment "B" (H-583) and Senate Amendment "A" (S-301) thereto in non-concurrence.
 TABLED - June 7, 1993 (Till Later today) by Representative GWADOSKY of Fairfield.
 PENDING - Further Consideration.

Representative Mitchell of Freeport moved that the House Insist.

Representative Coles of Harpswell moved that the House recede and concur.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I hope you won't vote to recede and concur. Remember, this is the bill that the Representative from the USEPA said that if all the cars of Maine were in the Gulf of Maine, there wouldn't be any improvement in the pollution situation and they point to the six hours that ozone exceeded in southern Maine.

If you reject the motion to recede and concur and accept the motion to Insist, the bill will go back to the other body. In its current status, the differences between the two versions of the bill, the House version and the other body's version, are differences in how they deal with people.

Perhaps if we Insist, then we could sit down and talk about this issue a little more and we could have a kinder and gentler bill.

I don't think that we should move too fast on this particular issue.

There are several arguments that have been used for the bill, the first is the sanctions argument which we heard here a few days ago. It was pointed out that if we don't do this, we are going to have severe sanctions from the federal government.

Representative Adams listed a number of places in the United States that received sanctions in the 1970's and 1980's and he listed places like southern California, Denver, Albuquerque, New Mexico and some cities in Ohio, I believe. Generally, when I think about those places and I think about the clean air in

Maine, Portland, Maine doesn't seem to compare to Los Angeles or to Denver or to places like that.

The other argument that you heard for this bill is the health argument that air and ozone pollution causes health problems and they certainly do. Representative Marsh, in the debate the other day, had a handout from the Maine Lung Association that listed the problems of air pollution. It is interesting to note that the Maine Lung Association, although they lobbied for the bill last year, isn't lobbying for the bill this year. They have told me that they are kind of concerned with the direction the program is going so they sort of backed off. You don't have to take my word for it, you can call up the Maine Lung Association and find out whether that is their real position on this particular issue or not.

The real reason that we are passing this bill is that I think that it makes things go really well in the bureaucracy. First of all, the federal bureaucracy is going to be pretty happy that this bill is passed because they have a nice new program that is going to be beneficial to the USEPA.

At the Maine Department of Environmental Protection, we have a Commissioner of Environmental Protection and if you read in the newspapers back in January, you will realize that that Commissioner is seeking a job with the USEPA. It probably would help the person getting a job with the USEPA if they had implanted a nice program that the EPA wants like this one. Certainly the state bureaucracy is probably going to enjoy this program, there are some 19 new jobs coming on with another bill we just passed here. Then there is a fiscal note that was added to this bill and that will add four jobs, so almost all the cuts in the Department of Environmental Protection are going to be made up for with new personnel that is created through implementing the Clean Air Act Amendment.

Just a few things before I close. This program isn't going to solve the problem. It is a costly program. We have other priorities. When I look around in Portland, there are people sleeping under bridges and we are not dealing with that problem.

The Energy and Natural Resources Committee decided not to do anything about dioxin, although that is a demonstrated problem. We are going to put that off for another year, we are not going to move too quickly on that because we don't want to cause anyone any problems. But, on this particular issue, we are going to move ahead, despite all these costs and unknowns and I think it is a great mistake.

Again, I would ask that you vote against the motion to recede and concur, that you vote to Insist. We may be able to sit down and work out some of these problems with this particular program. If we can do that, it may be a better program for all the people we represent.

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

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: Number one, I want the Record to clearly show that I am not carrying any water for the Commissioner of DEP for job enhancement, that is not my purpose at all for being on this.

Also, I want the Record to show that every time I have had a chance to vote to do something responsible on dioxin, I have done it. Neither of those things

have anything to do with this. As it was explained the other day, this is simply an update for the State of Maine to get in compliance with the Federal Clean Air Act. The State of New Hampshire has done this so we are not alone in doing it.

I didn't debate Representative Mitchell the other day when he upped the mileage exclusion from 5,000 to 10,000 miles because I thought you had heard all you wanted to hear about it. Clearly it is a red herring. Representative Mitchell knows it is a red herring. The federal law doesn't even allow for this. The day that we finally worked it out in committee, the people administering it from the federal level were there. They reluctantly agreed to a 5,000 mile exclusion. If this were to go with the 10,000 mile exclusion, it is a deal-breaker, we wouldn't be in compliance with the law.

I urge you people in the House to do what is responsible to recede and concur with what the other body has done and move this legislation along. I think you have all heard all you want to about it.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: I think this is the bill that you are damned if you vote for it and you are damned if you don't, plain English.

Representative Marsh mentioned the State of New Hampshire, the State of New Hampshire passed it in the legislature and the Governor refused to sign it and let it go into law without his signature. That tells me that there is one Governor that thinks there is something wrong with it and I hope there are a lot of other Governors that feel the same way.

I think it isn't too much to ask to let our older folks have 5,000 miles a year on their old cars. I don't think it is going to hurt anybody. It isn't going to hurt the bill. It isn't going to hurt the program. I am telling you folks, we have got a tiger by the tail, if we go with this IM240, we are going to be stuck with this for five years at a minimum. I am telling you, sooner or later, some of the people in your district are going to be on your back for what we are doing to them.

I hope you will vote to Insist.

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

Representative COLES: Mr. Speaker, Men and Women of the House: The Commissioner's actions, whatever you may think of the Commissioner, the Commissioner's actions on this particular issue have a consistence of both before and after the change of the national Administration. To slur his character on the floor of this House, I think, is totally uncalled for.

Beyond that, my friend from Freeport has engaged his same scatter-cut techniques in firing bullets across the landscape and hoping that some hit the target.

The Representative from West Gardiner tried to bring us back to the point which is, one, if we wish to see the air quality improve, our neighbors improve their air quality so we have approved air quality, we have to do our part.

Two, the Clean Air Act, in the law, not at the discretion of the EPA, but in the law, says that if you do not have this program, we will lose \$60 million of federal highway funding and we cannot afford to lose that funding.

Three, we have a lot of people in Maine who suffer from respiratory illnesses and there is no

doubt, unquestioned, that for 29 days a year, these people have to restrict their activities and suffer. Half of that problem is contributed by mobile sources, including sources in Maine.

You have been reading the series in the Portland paper this week about the Maine economy. You will notice that the quality of life and the quality of the environment in Maine is one of the major foundation stones of our economy. This bill would be a contribution to shoring up that foundation stone.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Coles of Harpswell that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Mitchell of Freeport requested a roll call vote.

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 Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Men and Women of the House: I apologize for getting up and speaking on this matter at such a late time in the debate. I must state that as a member of the school board in Old Town, we had an issue arise awhile back where we ended up finding out that 140 of our students have a severe enough asthmatic and bronchitis problem to cause a situation where they have to use inhalers. These are rather severe illnesses.

We asked the people that we had for expertise and why this is going on because we thought it was the pollutants put out by James River, the paper company in Old Town. We found out that that isn't the majority of the reason why so many of our kids have these problems. The majority of the reason is indoor air pollutant. I just thought that had something to do with the debate that we are carrying on here.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I hope that I haven't thrown out any red herrings, I never ran into one. I stand by everything I said in my earlier remarks.

As you vote, remember that there are millions and millions of automobiles in the states between Massachusetts and Maryland, millions and millions and millions of automobiles and they all emit this pollution and it comes over our state in a wave. Actually, it kind of goes out over the ocean and if there is an onshore breeze, it blows back in on southern Maine. There are only half a million automobiles in the seven county area that will have it, so you can put this program in and you can make all your constituents go in there every other year and pay \$24 or \$27 to have their automobile fixed and some of them will have to pay \$450 to have these problems corrected, but the problem is still going to remain, you are still going to have ozone problems in southern Maine and all you will have done is cost your constituents money.

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

Representative COFFMAN: Mr. Speaker, Men and Women of the House: I must state in addition I have some personal experience with indoor air pollutants. I used to be a builder and I used many of those materials that pollute our air. I put a rug in my daughter's room a while back and it was a full month before we could use it and I kept the window open the entire time of the month.

I would just like to state that if we are going to put such a burden on people who can't afford to do much more to their cars that the state requires, then why don't we just go all the way and correct all the problems, why are we just choosing to pick on people who own cars? Let's straighten out all the problems while we are at it.

The SPEAKER: The pending question before the House is the motion of Representative Coles of Harpswell that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 181

YEA - Adams, Anderson, Barth, Bennett, Bowers, Brennan, Carleton, Cashman, Chase, Clement, Coles, Constantine, Dexter, Driscoll, Erwin, Faircloth, Farnsworth, Gean, Gould, R. A.; Gray, Gwadosky, Heeschen, Hichborn, Hoglund, Holt, Jacques, Johnson, Joseph, Kontos, Larrivee, Marsh, Michael, Michaud, Nadeau, O'Gara, Oliver, Paradis, P.; Pendexter, Pfeiffer, Pineau, Pinette, Rand, Richardson, Robichaud, Rotondi, Rowe, Rydell, Simonds, Stevens, A.; Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, True, Walker, Wentworth, The Speaker.

NAY - Ahearne, Aikman, Aliberti, Bailey, R.; Beam, Birney, Bruno, Cameron, Caron, Carr, Carroll, Cathcart, Chonko, Clark, Cloutier, Clukey, Coffman, Cote, Cross, Daggett, Donnelly, Dore, Dutremble, L.; Farnum, Farren, Foss, Gamache, Greenlaw, Hale, Hatch, Heino, Hillock, Hussey, Jalbert, Joy, Kerr, Kilkelly, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Martin, H.; Melendy, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nash, Nickerson, Norton, Ott, Plourde, Plowman, Pouliot, Reed, G.; Reed, W.; Ricker, Saint Onge, Simoneau, Skoglund, Small, Spear, Strout, Tardy, Taylor, Thompson, Townsend, G.; Tufts, Vigue, Whitcomb, Young, Zirkilton.

ABSENT - Ault, Bailey, H.; Campbell, DiPietro, Fitzpatrick, Ketterer, Lemke, Pendleton, Poulin, Ruhlin, Saxl, Winn.

Yes, 60; No, 79; Absent, 12; Paired, 0; Excused, 0.

60 having voted in the affirmative and 79 in the negative with 12 being absent, the motion to recede and concur did not prevail.

Subsequently, the House voted to Insist.

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

Bill "An Act to Centralize Licensing for Retail Businesses" (H.P. 399) (L.D. 512)

- In House, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A"

(H-367) as amended by House Amendment "A" (H-408) thereto on June 4, 1993.

- In Senate, Bill and accompanying papers recommitted to the Committee on Business Legislation in non-concurrence.

TABLED - June 7, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

On motion of Representative Hoglund of Portland, the House voted to Adhere.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-587) - Committee on Legal Affairs on Bill "An Act to Restrict Private Political Campaign Contributions in State Elections" (H.P. 1085) (L.D. 1451)

TABLED - June 7, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative DAGGETT of Augusta to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Daggett of Augusta that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

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

An Act to Facilitate the Assessment and Collection of Municipal Property Taxes (S.P. 402) (L.D. 1233) (C. "A" S-242)

TABLED - June 7, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Subsequently, L.D. 1233 was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the eighth 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 - June 7, 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 ninth item of Unfinished Business:

Bill "An Act to Expedite Maintenance of Utility Facilities" (S.P. 346) (L.D. 1041) (C. "A" S-250)

TABLED - June 7, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

On motion of Representative Adams of Portland, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-250) was adopted.

The same Representative offered House Amendment "A" (H-628) to Committee Amendment "A" (S-250) and moved its adoption.

House Amendment "A" (H-628) to Committee Amendment "A" (S-250) was read by the Clerk.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope you don't accept the amendment that is offered this morning. The same amendment was the language that we used in the committee process and we rejected it. The bill came out as a 12 to 1 report.

I am being told that this amendment that is offered today that there is going to be a fiscal note attached to the bill and is going to be a municipal mandate.

I ask for a division, Mr. Speaker, and I hope you don't vote to accept the amendment.

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

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

To any member of the Utilities Committee, is this the bill that would permit the utility company from clearing all the vegetation underneath their wires without permission of the landowner?

The SPEAKER: Representative Mitchell of Freeport has posed a question through the Chair to any member on the Utilities Committee who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: In general, the answer to the question posed by the Representative from Freeport is yes.

As written, the bill, long since buried on our desks that this amendment refers to, would grant a brand new right to electrical and to telephone utilities, a very powerful right that does not now exist in law which is an absolute right to cut down trees or to clear vegetation in any of the rights-of-way with no permission necessary whatsoever either from the owners of the land, the owners of the road or the owners of the trees.

Two things there bother me if I may expand upon my answer to the good Representative from Freeport, Representative Mitchell. Number one, the utilities would be able to do so asking permission of no one, as I have indicated, and that that vague phrase "public-right-of-way" enters into the picture. This is why I, the one who dissented upon the committee, found it a difficult bill to agree to, for these reasons, number one, your right-of-way will vary absolutely considerably depending upon what kind of a road it is. The right-of-way does not stop at the edge of the blacktop, it depends upon whether it is a county road, a town road or a state road. Each has a different variance in the right-of-way and each can vary further within that category depending upon the

kind of deed that was signed long ago when the road was built. It depends on whether the road is owned by deed outright or whether there was an easement. And, depending on who wrote that easement, as much as 100 years ago, it may have boiled down to this very simple, single fact, that maple tree, 200 years old, 15 feet in on your front lawn, may not be yours, even though you have been paying property tax upon that front lawn as long as you have owned the house and think that it is yours.

This new law would grant the utilities absolute right without consulting you, without getting your permission, without getting the permission of your town fathers or mothers, without getting permission from anyone to come and cut that tree down or to do various other kinds of trimming that may be necessary.

Furthermore, it is further wrinkled by the fact that there are paper streets in existence in almost every town in Maine that have never been built, meaning they exist on paper, they are public-rights-of-way and though they are ghost streets not in existence now, they are very real and they are alive, though asleep, in your own property deeds whether you know it or not.

I would draw our attention back to the very brief, but I thought incisive comments made last night by the Representative from Gorham, Representative Larrivee, on L.D. 1403, the bill that would have provided guaranteed access of a right-of-way to landlocked property. I believe she hit it absolutely on the head, it is dicey and difficult, to use her words, to balance out private rights and public rights. As written, this bill would give an absolute new right with no opportunity of appeal and no opportunity for consultation unless you asked for it well in advance to have this happen to you or to I.

I don't think we have to go into too much detail to remember what may have happened if you are a Representative when somebody has in fact lost a tree that may be precious to them or a right-of-way or something like that due to a power company being hasty in what it did.

I would assure you that this bill in no respect cuts down upon a power company's ability to go out and trim trees after an emergency like the storms of last autumn, that is in a different part of law, the law before us does not attempt to amend that or do anything to it. This is an entirely new law and my amendment would simply say that the municipal authorities must give approval so that the work may be done if there are rights-of-way that need to be cleared. That is all. It seems to me that somewhere along the line there has to be somebody who has the chance to say yes or the chance to say no and to be held accountable. That is what the amendment would do, if indeed it is a municipal mandate, the opportunity to say yes or no, I don't think can bear too much of a price tag.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I hate to disagree with my colleague, Representative Adams of Portland, but I think this time we just got a snow job in June.

To answer Representative Mitchell's question about cutting all the vegetation under the lines is totally erroneous. If you take a look at what was handed out earlier, particularly on the rules and regulations that the utilities are going to have to

go through to do what they want to do, you would almost think they are going to have to go through an act of Congress just to trim a tree.

Representative Holt had a major concern in the committee to protect the old maple, the old tree that may be setting in somebody's dooryard, we worked that agreement out with the committee, it came out a 12 to 1 report of "Ought to Pass." We took care of her problem and worked it out two or three different times in the committee. The last thing we want to do is cut down anyone's tree. I think the last thing you want to do with your constituents is tell them that the power is gone out in the area because a limb was hanging out over the lines.

I know in the Katahdin area lately, the Bangor-Hydro has got back into trimming trees. It seems when the wind blew, a number of times the power would go out, this is going to help the service, it is going to help your constituents.

I hope when you vote, you vote not to accept the amendment.

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

Representative MORRISON: Mr. Speaker, Ladies and Gentlemen of the House: I think we need to dispel some of the fears that have been generated. I think if you look at the committee amendment, it is very specific as to exactly what the utilities will do.

In Section 5, it refers to shade and ornamental trees. "Before removing a shade or ornamental tree, the utility consults with the owner of the land upon which the tree is located." That certainly does not give the utility the right to go out and cut anybody's tree without any consultation whatsoever.

Further, you must give notice upon request of the application for a licensing authority the utility consults with the licensing authority. That means that they will give notice to each municipality before they do any trimming or cutting in that area.

Also, public notice. Public notice is placed in at least two newspapers with circulation in the area where the trimming or cutting will take place. This occurs at least 30 days prior to any cutting or trimming.

In addition, the utility must put a flyer in each bill indicating that cutting will take place and if you have a problem with that, you fill out the form, send it back to the utility, your trees will not be cut or trimmed without consultation.

I urge you to vote against this amendment.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: I would point out to you upon the bill itself, which no doubt you can no longer find in the Katahdin's on our individual desks, that it does in fact require a consultation, if you ask. But, what I stated before is the absolute fact, consultation is not acceptance, it merely says that the power company shall consult with municipalities that ask and shall consult with people who are concerned, if you ask. They are supposed to get your attention by a public notice in the paper. Men and women of the House, how many of us have ever even noticed our own public notices for our own hearings in the newspaper? How many people read their last bill insert?

If you are a Central Maine Power Company customer, I am holding that bill insert right here, I would wager most of you threw it away. Too bad, because if you did, you just missed reading all about

the rate increases that possibly could hit you within a few weeks on the first of July, a very important notice, extremely important notice. I would wager very few of you could tell how much your power bill is going to go up even though it was in that notice.

If in fact you are in Bangor-Hydro Electric's territory, you would not have even gotten a bill insert, they don't do one.

Consultation is not approval. If you were lucky enough to have caught the notice anywhere along the line and asked to be put upon the list, that would merely mean they can come and talk to you while they start the saw.

In closing, I would simply point out that all my amendment does is require that, if a municipality so desires or a governing authority so desires to have consultation with the power company before they do routine maintenance, not clearing after the result of a storm, routine maintenance, therefore they could ask and the power company will consult with them and I presume receive approval wherever it is needed.

I tell you as a legislator who lived through this just recently, with the examples of State, Deering, Grant and Sherman streets in the City of Portland, the last thing you as legislators want to do is to have to answer a constituent who got their tree cut down with them having nothing to say about it by a power company that may or may not have ever even told them they were going to do it and then to have them find out that you granted them this absolute unappealable right with your vote.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I am proud of the part of the committee amendment that has to do with shade trees and ornamental trees. Sometimes that kind of thing is in the eye of the beholder.

Since I signed onto the Majority Report and since that section was added to the bill, I visited a constituent who had a problem like this and I hadn't been to see him before the vote but last week I did go there and I was shocked to see what had happened to the trees along the right-of-way on his property. I showed him the bill and he and his wife who had been very troubled and their property really does look quite different now where these big trees have been cut where before they had always been trimmed carefully. It is a new policy and a new person hired by CMP to do the cutting was the problem and when the older person who had been doing the overseeing of the work came to see him, he said "I would certainly be very upset if this had happened to me." That was the person from CMP saying that himself who had been in charge and still is in charge. So, Mr. and Mrs. Daniels said to me, "I really think we should be notified in each bill, the bill ahead of time one month or at least try to get in touch with us before doing that kind of cutting." So, what he really would have liked is to be notified.

This amendment simply says that the local officials should give approval and you are much closer to your local officials than you are your CMP bill people and I think it would be an improvement, although it is not as strong as our constituents probably would like. So, it doesn't seem to me to do any real harm at all to the sense of the bill and is an added protection for our constituents. I think you should accept and adopt this amendment.

The SPEAKER: The Chair recognizes the

Representative from Freeport, Representative Mitchell.

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

Can anyone on the committee tell us why the landowner and the person who pays the taxes shouldn't give their written permission before trees on their property are cut down for the utility right-of-way?

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

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I will attempt to answer that question. As I understand it, the present practice that goes on today before this bill is that representatives from the utilities will go door-to-door and consult with the landowners on trimming of their trees and then they will trim it. As I understood it the way it was presented to us in committee, when we looked at it, they do not have the right to refuse to have their trees trimmed at this time.

So, the original bill that came to committee was totally unacceptable to the entire committee. The amendment (S-250) that is on the bill presently, we remedied that with all the things that Representative Morrison listed off before. The amendment that we are considering at this time, which requires approval from the local municipalities, we discussed that in committee too and the problem with that amendment is that some of the smaller communities, when you get north of Augusta and Portland, have a board of selectmen, they have town meetings once a year. If you need to trim trees and you cannot get the selectmen together other than the annual meeting, then you may have to wait a year before the trees can be trimmed. In that case, then you are looking at having possible power outages during the winter and that is the reason I cannot support this amendment.

Representative Adams of Portland was granted permission to address the House a third time.

Representative ADAMS: Mr. Speaker, Men and Women of the House: To add my own bit to the answer to the question from the Representative from Freeport, Representative Mitchell, even in tiny towns like East Stoneham, Maine, the selectmen meet once a week. You don't have to wait a year in between town meetings. It is merely the local authorities, whether it be a county authority for a county road, local authority for a local road or the state if it is a state road. We know exactly who those authorities are, those authorities meet regularly, they can give all manner of approval necessary.

I would also indicate that the amendment in no respect, nor the bill in any respect, touches upon the right of the utilities to clear lines and keep the pathways clear following storms or emergencies. In specific, the bill states, and I am not attempting to amend this section whatsoever, "this section does not apply to trimming, cutting or removal of trees undertaken in emergency situations."

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: Apparently the utilities aren't the only ones thinning out, we are thinning out the House with this debate.

What we have going on here today is preventive

medicine. It is before there is a power outage and your constituents are left without power, arriving at work late and going through all the difficulties that happen when we lose the convenience, the modern convenience, of electricity. They thin out the trees, find the branches that are likely to break off and fall and knock out a power line and try to make it a little safer for the neighborhood.

What we are trying to do here today is just move forward with what the Utilities Committee on a 12 to 1 report agreed to. Representative Clark was 100 percent correct when he said that we worked through language like this and we found it would be a hindrance to moving forward. That is when we discussed the section which Representative Morrison referred to, the shade and ornamental trees that Representative Holt brought up. That way for the special 100 year old maples and the ornate variety of trees that are on your front lawn and are just so beautiful that the utilities would pay special attention to that and know that the legislature finds those as a special vegetation on the front lawn. What we are trying to do is protect your constituents from power outages.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: I would echo the comments of Representative Adams of Portland who noted that consultation does not imply improvement and that basically all they have to do is say, we are going to cut this down and then they do it, they have consulted with you.

This bill has been presented here as if it is some innocuous and very benign kind of thing, a preventive here, but what it really would do is to ratify the kind of drastic tree trimming policies that the utilities have tried to put in place, whole tree trimming. In some of our Maine villages, you can see the devastating results of this where they have taken entire sides of trees and cut them right down. They don't go and identify a couple of limbs that may be in danger of coming down, they figure, well, we will be really preventive, we will do this for the next 15 or 20 years and we will cut the whole side of the tree off and nothing is going to happen.

A couple or three years ago in rate case 8968, there was a big outcry, a lot of public complaints about utilities' tree trimming practices, largely centered around this whole tree trimming. Although the utility was supposed to consult with people, and they did, they generally would get permission to do the trimming, however, people really didn't understand that they were talking about either cutting trees down completely or ripping off one whole side of the tree. You can really damage the kind of look that you have got on your lawn and so forth. At that time, the PUC required the company, Central Maine Power in this case, to hire consultants to review their practices. They eventually filed a report, their consultant actually recommended that they repeal the requirement that they get owner permission. The company said, oh no, we have no intention of doing that. Well, that is what we are getting here. They finally changed their intention.

I want to elaborate a bit about Representative Adams' comment about the ambiguity of deeds and so forth. Even when you have got different types of roads, even when you have got a given type of road, you may have zig's and zag's in the actual

right-of-way depending on how the road was laid out and what existing buildings and yards and so forth were in place at that time. So, you really don't know unless you can look at the road layout deeds in a courthouse or can interpret written deeds, sometimes there are maps filed in the courthouse when they have upgraded a road.

I think that large parts of what you think of as your lawn are really right-of-way. I think that the amendment offered makes a marginal improvement to a bad bill. I think we should accept this.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-628) to Committee Amendment "A" (S-250). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

48 having voted in the affirmative and 74 in the negative, House Amendment "A" (H-628) was not adopted.

Representative Holt of Bath moved that the House reconsider its action whereby House Amendment "A" (H-628) was not adopted.

The same Representative requested a roll call vote on her motion to reconsider.

Representative Clark of Millinocket requested that the Committee Report be read by the Clerk.

Subsequently, the Committee Report was read in its entirety by the Clerk.

Representative Adams of Portland requested the Minority Report be read by the Clerk.

Subsequently, the Minority Report was read in its entirety by the Clerk.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: Frequently one does find themselves on a Minority Report. That is the only opportunity we have to speak in the position in the system under which we operate.

I felt deeply about the bill when it was before the committee and saw no real, deep, clear cause for the utilities to be asking for one major, large, new, all encompassing and unassailable right to do one thing without anyone's permission, especially when, from experience, I know that that one thing is going to cause you and I the elected Representatives of the people a certain amount of difficulty if in fact since consultation does not mean approval, somebody shows up from the power companies and starts to take down a line of trees or a single tree on what you presume to be your lawn or what you did not know was a right-of-way across your property. Property rights are a very difficult thing.

I would repeat again for the newcomers who just came back into the House for this fascinating debate that the bill before us would grant power companies and telephone companies the absolute right to cut down trees that exist in the public right-of-way without doing anything more than consulting those people who ask to be consulted, if you are quick enough to catch their notice.

What my amendment would do is simply add to that that they must also consult and receive the approval of municipal authorities, whoever is in charge of that road. There are many kinds of roads in the state, county, state, local. Each one of them has a different easement and each one has a different width, each one of them has a different right-of-way. I am sure, whether the road in front of your house is county, state or local, is not a

topic of dinner table conversation in your home but I assure you it will be if the utilities come and buzz down all those trees and didn't ask anybody about it and that your constituents at home found out that you voted for that thinking it was a good idea.

I assure you that nothing in the amendment or the bill before you restricts the ability of the power companies or the telephone companies to clear the rights-of-way after a storm as we suffered last Fall, that is specifically exempted.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I will stay to the motion, I believe it is to reconsider. I would urge you today to reconsider the amendment that was offered by the gentleman from Portland. I think we ought to take a strong look and reconsider and look at that amendment that was proposed. I didn't speak on it earlier but if you move to reconsider, I will give you some information that we have been involved in with the utilities in regard to public ways.

I would urge you to reconsider.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

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

Has there been a ruling on whether or not this House Amendment would in fact be a mandate?

The SPEAKER: The Chair would advise the Representative that the amendment at the moment is not before the body, therefore, the Chair cannot rule on that.

The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: There are two days that I like to be home, one is when they grade my road and the other is when they cut the trees. I have been away on each of those occasions at different times and I have met absolute catastrophe. Once my house looked like a supermarket, it took ten years to grow it back. I was mad for all ten of those years.

I don't know what they do on public ways but I know on private ways, I would like to be asked. If this amendment that has been offered would give those of private ways some rights too, I would appreciate it. In the meantime, I shall still try to be home on those two days.

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 Holt of Bath that the House reconsider its action whereby House Amendment "A" (H-628) failed of adoption. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 182

YEA - Adams, Ahearne, Aliberti, Anderson, Bailey, R.; Beam, Bennett, Birney, Bowers, Brennan, Bruno, Carleton, Caron, Carr, Carroll, Cathcart, Chase, Chonko, Clark, Clement, Coffman, Coles, Constantine,

Cote, Cross, Daggett, Dexter, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Heino, Hichborn, Hillock, Hognlund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Ketterer, Kontos, Kutasi, Larrivee, Lemont, Libby Jack, Lipman, Lord, Marsh, Marshall, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Plowman, Pouliot, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rowe, Rydell, Simonds, Simoneau, Skoglund, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Townsend, E.; Townsend, L.; Tracy, Treat, True, Tufts, Vigue, Walker, Wentworth, Young, Zirkilton.

NAY - Aikman, Ault, Barth, Cameron, Campbell, Cashman, Cloutier, Clukey, Donnelly, Farren, Foss, Greenlaw, Kneeland, Libby James, Lindahl, Look, MacBride, Morrison, Nickerson, Ott, Pendexter, Reed, G.; Robichaud, Ruhlin, Saint Onge, Small, Taylor, Thompson, Townsend, G.; Whitcomb.

ABSENT - Bailey, H.; Dore, Kilkelly, Lemke, Pendleton, Poulin, Saxl, Winn, The Speaker.

Yes, 112; No, 30; Absent, 9; Paired, 0; Excused, 0.

112 having voted in the affirmative and 30 in the negative with 9 being absent, the motion did prevail.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, again with the same question, have you made a determination on whether House Amendment "A" is in fact a mandate?

The SPEAKER: The Chair would answer in the negative but the Chair will make one.

The Chair would advise members of the House and Representative Kontos that the amendment and the Committee Amendment will now require a mandate. This does not mean that it is improperly before the body but it does mean that it cannot be enacted without a mandate amendment. If a mandate amendment is not adopted, then the state will have to fund the public hearings.

The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: Earlier when we debated this amendment, I didn't get involved because I kind of felt that this House would be reasonable to a friendly amendment. In my opinion, the amendment that was offered by the gentleman from Portland, Representative Adams, is a friendly amendment. At the present time, when the utilities come out and want to set a pole in our right-of-way, they have got to get approval from the municipal officers and we might want to move that pole one way or the other. I think it is the same idea if you are going to remove trees or you are going to make any changes in front of that private property on that public way that there is nothing wrong with having a friendly amendment that allows municipal officers to consult with the utility.

I think we would be making a big mistake if we didn't have this check and balance between the homeowner and the utility.

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

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

We have heard a lot about what will happen during consultation and how the mean old utilities will just go stomp all over everybody who doesn't agree with them. Can anyone here tell me of a time when they consulted with the utility about trimming a tree and they went ahead and did it anyway?

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

The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: In reply, maybe not just removing a tree but for other reasons. We have been involved where we had underground buried cable that was going to be put in the right-of-way of a public way in our municipality and we asked the utility to make sure that it was x-number of feet from that pavement and they went and put it within a foot of the pavement. We consulted with them and we asked them not to do that and they did it the way they wanted to anyway.

As far as limbs on those trees, in emergencies, of course not, but I think you will find if you went across this state, you would find a lot of people out there, Representative Donnelly, that have had situations with the utilities that have had trees removed when they didn't want them removed.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I wasn't going to speak on this issue but since the question was raised, I also know of a situation where some property owners were consulted about cutting down trees along an easement that the utility thought they had. They were informed by those property owners that the utility did not in fact have an easement over that piece of their land, they went ahead and cut down the trees anyway. As a result, the whole matter ended up almost going to court and having to be settled. The utility ended up having to pay thousands and thousands of dollars to the landowner.

I think it is quite possible that this bill, particularly if it isn't amended, could end up in the long-run costing those utilities more money because they are going to have to settle claims for doing things improperly.

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

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: I would like to respond as well. I mentioned earlier Docket 8968, a rate case at Central Maine Power, in that Docket you will find a large number of instances where people had complained about differences between what they thought they were giving permission for and what really happened. I am not sure whether the instance of the mistaken right-of-way that Representative Treat referred to is the one that I remember being discussed at that time, but it could very well be because it sure bears some resemblance.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I would like to focus a little bit on the effect of this amendment if it is adopted.

The Representative from Portland indicated that people don't sometimes see or notice the notices that come out with their electric bills specifically with

regard to cutting. As I read the amendment, it almost seems to me that it would be the selectmen or the city council who would receive some kind of notice and perhaps there might be some kind of public hearing with regard to any cutting. I know that perhaps some people don't read the inserts in their utility bill, but I also know that many people don't read the public notices regarding hearings by selectmen or a city council and don't read the agendas, so I wonder how much protection any individual property owner is going to get as a practical effect if this amendment is adopted?

I also question what a board of selectmen or a city council is going to do in case somebody does show up at a hearing and says, I am afraid somebody is going to cut my tree or cut too much of my tree, what kind of order or conditions do you attach if you are a selectman to try to protect that person? Do you say, don't cut too much or do you set it forth in feet and inches, dimensions about how far you are supposed to cut? It just seems to me after reading this through that perhaps the protection sought in this amendment might not occur in reality.

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

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I have climbed many a telephone pole working for New England Telephone and I have been in the business for about 20 years, I am a telephone technician, a repairman, a trouble shooter. I have three 200 year old maples in front of my house and I have worked on many tree trimming expeditions for the phone company and never once have we ever, ever, ever gone to a house and cut trees down without the authority of the people involved. If they were not present as is the situation many times today where both family members are working, we are so careful as to not ruin the looks of the tree but also to provide a very safe condition for those people.

I have heard a lot of things mentioned today and I felt it was incumbent upon me to stand up and mention a few things. The original amendment gives notice to the applicable licensing authority, then consultation with the applicable licensing authority and there is also a public notice in the papers. It is a question of safety when we have to do what we have to do.

I was out on a power break the other night, a power burn where the power came down and hit the telephone cables and it burned up the lines. We had to cut a diameter limb off a particular tree that was close to eight or ten inches. The people there were extremely happy to see us show up. If anybody had touched that tree, any child in that neighborhood had touched that tree, they would have been electrocuted. The utilities are extremely conscious of the fact that that tree on your private land is your tree.

Like I said, in the last 20 years I have been working for this company, never, ever, ever have we gone and taken the right to totally cut down a tree or even a limb. There are times when I have gone back to the company, told the company to get in touch with the people, left the condition that would possibly interrupt telecommunications services, for the benefit of the landowner.

This particular piece of legislation, I think, has gone a little bit too far. We give notice to the

people. You can call up any utility if you don't want your trees cut and you can tell them, will you please consult with me before any tree trimming is done? We contract out our business with contractors and they have been given very very firm orders to be extremely careful when doing tree trimming. So, I think this piece of legislation has gone a little bit too far. There aren't too many circumstances that aren't built upon hype that the trees are cut down at local residences.

I ask you to vote against this motion on the floor.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I promise to be very brief. This bill frankly has amazed me — the amount of time we worked on it in committee amazed me and the amount of time we have spent on it today amazes me.

I would just like to make some points clear. This bill did not take away any rights. It did not take away the individual rights or the municipality rights, it only changed the way in which they are notified.

The existing law today does not require municipal approval, it requires that they be notified, it does not require municipal approval. You don't see the Maine Municipal Association lobbying for approval. As a former City Councilor, I agree with Representative Carleton that that would be a very tough question to answer. As a City Councilor sitting on the Council and you are asked, will you allow a utility to come in and cut these lines so they can give good telecommunication services and reliable electric service? Are you going to vote no to that? Maybe, maybe not. You have to have a good public outcry and will that public outcry result from a selectman meeting? I don't think so.

I would ask you to oppose this motion.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: In response to my friend, the Representative from Wells, Representative Carleton, I would point out that only if you read the bill and my amendment carefully, only those municipal officials who wish to have the opportunity will be in a position of giving approval or not once the notice is received.

To my good friend, the Representative from South Portland, Representative Cloutier, I would point out that existing law and, indeed, this bill before us and my amendment do nothing at all to touch the rights of the utilities, in fact to do exactly what they are already doing, exactly what you were out doing the other night, trimming trees as the result of an emergency. I would read again the section, "does not apply to trimming, cutting or removal of trees undertaken in emergency situations." That is in the law we are voting on now and I make no attempt to touch it. I think it is fine.

Point three — I think if we continue the discussion any further, we will be literally, so to speak, stumped.

I request a roll call, Mr. Speaker.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I think the testimony given earlier by Representative Cloutier of Portland really hit the

nail right on the head. He gave you true facts of what happens out there in the workplace, he is a person that does it day in and day out. I hope when you vote today, you don't for the amendment, you vote for the bill. So, when you vote, vote "Ought Not to Pass."

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

Representative HEESCHEN: Mr. Speaker, Members of the House: Also in response to Representative Cloutier, I agree that in general, the utilities are very careful and that is because currently their interpretation of the law is that they need to get permission from the landowner. This changes that a lot.

If the problem had not occurred, if the utilities were always careful, there would not have been a big outcry during rate case 8968 and there was. There were a lot of problems that occurred.

There was a comment about the amount of time that we are taking to discuss this, I urge you to contrast that with the amount of time it takes to grow a 100 or 200 year old tree.

Representative Donnelly of Presque Isle moved that House Amendment "A" (H-628) be indefinitely postponed and further 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 House is the motion of Representative Donnelly of Presque Isle that House Amendment "A" (H-628) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 183

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Birney, Bruno, Cameron, Campbell, Carleton, Carr, Carroll, Cashman, Clark, Cloutier, Clukey, Daggett, DiPietro, Donnelly, Driscoll, Erwin, Farren, Foss, Gould, R. A.; Greenlaw, Gwadosky, Heino, Hillock, Hussey, Jalbert, Kerr, Kneeland, Kontos, Kutasi, Lemont, Libby James, Lindahl, Lipman, Lord, MacBride, Marshall, Martin, H.; Mitchell, E.; Morrison, Nadeau, Nickerson, O'Gara, Ott, Paradis, P.; Pendexter, Pinette, Plourde, Plowman, Reed, G.; Robichaud, Ruhlin, Saint Onge, Small, Stevens, A.; Sullivan, Tardy, Taylor, Thompson, Townsend, G.; Tufts, Whitcomb, Zirnkilton.

NAY - Adams, Beam, Bennett, Bowers, Brennan, Caron, Cathcart, Chase, Chonko, Coffman, Coles, Constantine, Cote, Cross, Dexter, Dore, Faircloth, Farnsworth, Farnum, Fitzpatrick, Gamache, Hale, Hatch, Heeschen, Hichborn, Hogle, Holt, Jacques, Johnson, Joy, Ketterer, Larrivee, Libby Jack, Marsh, Melendy, Michael, Michaud, Mitchell, J.; Murphy, Nash, Norton, Oliver, Pfeiffer, Pineau, Rand, Reed, W.; Richardson, Ricker, Rotondi, Rydell, Simonds, Simoneau, Skoglund, Spear, Stevens, K.; Strout, Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, True, Vigue, Wentworth.

ABSENT - Ahearne, Bailey, H.; Clement, Dutremble, L.; Gean, Gray, Joseph, Kilkelly, Lemke, Look,

Pendleton, Poulin, Pouliot, Rowe, Saxl, Walker, Winn, Young, The Speaker.

Yes, 68; No, 64; Absent, 19; Paired, 0; Excused, 0.

68 having voted in the affirmative and 64 in the negative with 19 being absent, the motion to indefinitely postpone House Amendment "A" (H-628) did prevail.

Subsequently, Committee Amendment "A" (S-250) was adopted.

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

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Legislative Review of Delegated Rule-making Authority (H.P. 962) (L.D. 1293)

TABLED - June 7, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative MARTIN of Eagle Lake to indefinitely postpone Committee Amendment "A" (H-544).

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Martin of Eagle Lake that Committee Amendment "A" (H-544) be indefinitely postponed and later today assigned.

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

HOUSE DIVIDED REPORT - Committee on Legal Affairs - Majority (10) "Ought to Pass" pursuant to Joint Order H.P. 1135 on Bill "An Act to Reduce the Influence of Money in Elective Politics" (H.P. 1150) (L.D. 1550) - Minority (2) "Ought to Pass" pursuant to Joint Order H.P. 1135 on Bill "An Act to Reduce the Influence of Money in Elective Politics" (H.P. 1151) (L.D. 1551)

TABLED - June 7, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and later today assigned.

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

BILLS HELD

Bill "An Act to Establish the Maine Environmental Trust Fund Commemorative Motor Vehicle Plate" (S.P. 222) (L.D. 693)

-In House, Passed to be engrossed as amended by

Committee Amendment "A" (S-274) as amended by House Amendments "A" (H-606) and "B" (H-623) thereto in non-concurrence.

- In Senate, Passed to be engrossed as amended by Committee Amendment "A" (S-274) as amended by Senate Amendment "A" (S-286) thereto.

HELD at the Request of Representative O'GARA of Westbrook.

On motion of Representative O'Gara of Westbrook, the House reconsidered its action whereby L.D. 693 was passed to be engrossed.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and later today assigned.

Bill "An Act to Amend Certain Laws Governing Solid Waste Management" (H.P. 966) (L.D. 1297)

- In House, Passed to be engrossed as amended by Committee Amendment "A" (H-535) as amended by House Amendment "A" (H-575) thereto on June 4, 1993.

- In Senate, Passed to be engrossed as amended by Committee Amendment "A" (H-535) in non-concurrence.

- In House, House Receded and Concurred.
HELD at the Request of Representative TREAT of Gardiner.

On motion of Representative Treat of Gardiner the House reconsidered its action whereby it voted to recede and concur.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I hope that you will not vote to recede and concur. This is an amendment which went onto this bill under the hammer and it came off the bill under the hammer. I would like to have an opportunity to tell you what it is about and why I believe that it is an important amendment to put onto this piece of legislation.

I don't stand up lightly in an effort to change a unanimous committee report. I view those reports with a great deal of deference and I have a great deal of respect for the committee members of the Energy and Natural Resources Committee who I spent almost a lifetime with, it seems, before I became a legislator when I was a lobbyist for an environmental group. I still continue to have bills down there. However, this is a provision that slipped my notice, I wasn't in the committee room to give them an opportunity to discuss it at any length and I would like to present it to you.

Part of this bill, and it has many provisions, most of which I have no concerns with at all, but part of this bill repeals a provision of state law that has been in our laws for over 20 years. It is something called the 300 foot law. It was adopted in 1971 and is a very simple provision. I passed out a fact sheet to the House last week, it is on purple paper if any of you still have it.

What this law simply says is, "No boundary of any public or private solid waste disposal area shall lie closer than 300 feet to any classified body of surface water." There is also a provision in the law which provides for a variance which says that if it can be shown by the applicant for a solid waste facility, that that facility is not going to pollute the water, it can be closer than 300 feet to a stream

or other body of water.

When this issue came up last year, it was slid into the budget bill and this House by an overwhelming margin took it off the budget in an amendment. At that time, I had called around to DEP, and I hope I don't get anyone in trouble for telling me this, but there are at least some people over at the Department of Environmental Protection who think this is the single most important enforcement tool that they have. It is not just a DEP measure, because it is in the law it can be used by the Attorney General's Office or also municipalities and others who are on the list, for example, for a special waste landfill.

I know that it is a very important provision and it has come up in several instances where I have been involved in helping towns to get proposed sites both in Ellsworth and Alton off the list for a special waste landfill when the proposed site was not a good one and it was in fact too close to streams and ponds and wetlands. I know that it remains to be an important provision.

It is very unclear to me why the committee decided to get rid of this provision. When I first saw this, it came across my desk and I asked several members of that committee why this was a good thing to do. I got three different answers, maybe today we will hear something different. I personally don't see any reason for doing this major step which I believe significantly weakens an extremely effective simple law which has not put undo burden on anyone. I don't believe that anyone has been coming forward saying that it is putting great cost on them or anything else. It simply has worked very well.

One point that was made to me was that this is going to save a whole lot of money. Well, I took a look at the fiscal note on this Committee Amendment and it has nothing in there about saving money. It does refer to saving money by getting rid of the hearings at the municipal level in terms of whether or not to site a landfill in those towns. I don't happen to like that provision either but at least it saves money and I didn't go after it here. I don't understand what the saving is going to be.

It was also said to me, "Well, it doesn't really matter because it is in the regulations anyway." Well, as we know from debating this issue about what is in regulations and agencies not following regulations, not following the law when they do regulations, this is a case where the regulations do follow the law. If you get rid of the law, I don't think you are going to have regulations that keep having the same provision in it. That just doesn't make sense. And, if you did, I think that it is quite open for someone to argue that the regulations no longer follow the law.

The third concern that was mentioned to me was, well, this is sort of some kind of outdated law, we're much more sophisticated now and having the 300 foot prohibition is sort of simplistic and it doesn't accomplish good environmental policy. Again, I don't understand that concern. The provision has a variance in it, so if in fact a landfill could be closer than 300 feet and it isn't going to pollute, then we have a showing that that is the case and DEP signs off on it. So, it seems to me that the provision already has the flexibility in it that will enable it to work well.

In looking at this kind of thing and making a decision to repeal something that has been part of

our basic — I believe it was probably one of our first environmental laws that this state passed — it has been part of our basic set of environmental laws, we should think long and hard before we repeal it. I guess I just haven't heard the compelling arguments from the other side as to why that makes sense.

I would urge you to vote against the pending motion which is recede and concur so that we can go to make another motion.

I would request a roll call.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I can't tell you why any of the other members and their three reasons why they went along with this proposal but I can tell you why I did.

When we had this bill originally it was to look at many of the laws that have been on the books for many years because (in case nobody has noticed yet) we have some financial troubles in this state. DEP had some real financial troubles because we have cut them on every front.

This law was passed in 1971 when there was an abundance of potential sitings for these type of landfills. That is not the case today. As a matter of fact, I dare say that we will probably not see too many more special hazardous waste landfill sites in the State of Maine in your or my lifetime.

The other point is that the criteria that we have established over the years for siting one is probably 10,000 times stricter than it was in 1971. The thing we should be concentrating our efforts on are, do they meet the criteria established in law today more than are they 300 feet, 200 feet, 500 feet from a particular place?

DEP told us they don't use this law, they very rarely enforce this law because there are so many other laws which really take precedent over it. I do know of occasion where a company went through the whole process of filling it out, providing the information because it was 300 feet and that was eight or nine months ago. To my knowledge, that whole thing is still sitting on one of those people's desk over there that said this was probably the most important environmental law we had on the books. No action has been taken on it. Probably they did the company a favor because it is more than likely something they don't want to get into.

The second concern I had was that it seems to me in today's times, with the Natural Resources Protection Act, shoreland zoning, that indeed if your constituents have a hard time building a porch on their camp within 300 feet of a shoreline, that I doubt very much if DEP would arbitrarily and without much thought and consideration, allow them to put a landfill within 300 feet of a body of water, whether it be a bog, stream, river or lake. I felt — and I am speaking only for myself — extremely confident that with the myriad of other laws that we have protecting anything in a shoreland zone that if indeed if we put the curtailments on to allow someone to build a screen house, erect a flag pole or build an addition, a porch, or new set of steps on their camp, I hardly believe that removing the 300 foot buffer, which is an arbitrary figure that was put on in 1971 when we had no idea what we were getting into, it was a good law at the time but I believe 22 years later, it is a law that is no longer needed. When we looked at the whole big picture of things

that we thought were our priorities that should be kept, this did not fall in that category and that is why I (and I can only speak for myself) went along with doing away with this.

The reason for doing away with it hasn't changed from last year. I didn't want to fight it last year because it was mixed right in the budget and the last thing I wanted to do was get in a fight over something like this that would jeopardize the movement of the budget through the process.

Quite frankly, there are a lot of other things that will be coming down the line that will have much more important ramifications to your constituents and mine that will be worth fighting for. I just didn't think this was one of them.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: There is an old saying, "A lot of things have changed since Hannah died." This is the case of the 300 foot setback. DEP came in and suggested that we take it off and we had no reason not to, so why not do it.

I think you will find, just as Representative Jacques has said, it is being well taken care of. We might just as well get rid of something we don't need.

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

Representative COLES: Mr. Speaker, Men and Women of the House: I want to reiterate some of what Representative Jacques said. This is an old law created before we had any other protections, sound protection on siting dumps. We now have elaborate rules and laws, not only on the state level but at the federal level, designed to protect our natural resources from bad sitings of dumps. The key elements of those laws are design standards which provide for linings, leachate, collection and treatment systems.

As Representative Treat knows, this law allows a variance and those variances are routinely granted. In fact, they are granted whenever a proposed landfill meets the other standards; thus, this law is meaningless, but nonetheless requires, not only the department and not only the waste management companies, but every paper mill in this state that has a dump for its own waste to go through paperwork, to hire consultants, to do a variety of things every two years that it shouldn't have to do. If we are serious about trying to reduce cost to business and if we are serious about trying to reduce unnecessary and redundant red tape, then please support the recede and concur motion.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I just don't think that that is the case in terms of the amount of paperwork and everything else. If you take a look at the solid waste regulations, they are about an inch thick and that is what is costing someone who is an applicant for a facility time and money to put together an application.

This provision does not just apply to an instance where someone is siting a landfill for the first time. It is also available for the Attorney General's Office or someone else if someone goes out and places waste within 300 feet of a stream. It is part of our basic environmental laws and I, frankly, do not trust the DEP to continue to implement it

without having it in the state law.

I know for a fact that whether or not DEP plans to implement this itself, it is a factor if, for example, a town is on the list for special waste dump and the town hires its own consultant to take a look at the site, the site is such that the waste disposal facility will be within 300 feet of a stream and could cause significant environmental problems, they can raise that as an issue. I think that is appropriate. One of the worst environmental problems we have had in recent years has been the Norridgewock landfill which had a collapse at one point. At one point, it was releasing pollutants directly into a stream. That is an example of a landfill that was cited closer than 300 feet to a stream.

I recognize that there have been other standards that have been adopted over the years that potentially could prevent that problem from happening again but it seems that we are really getting rid of an important safety net as part of our environmental laws.

I would just draw your attention to the fiscal note on this bill which does not book a single cent of savings for this measure. So, I don't believe it is in fact in any way related to budget concerns. Although these are serious concerns which I share, I simply don't think they are relevant to this piece of legislation.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I apologize — but two points I want to make very quickly. Number one, the impetus for the bill was not in its entirety a cost saving measure, it was to look at the myriad of laws in DEP that overlap that drive your people and my people crazy trying to understand what one does and what one doesn't do, especially in light that there are three of four of them that overlap.

In reference to the Norridgewock landfill, the reason I am very familiar with that is because I was the person who went up there and got the stuff out of the stream and had it in big jars and presented it to Commissioner Marriott in front of the Energy and Natural Resources Committee and asked him what the heck was going on and got people up there.

With all due respect to Representative Treat, there are many, many laws that would have taken into account that situation, the 300 foot law had nothing to do with it because, quite frankly, the thing had been sited way before we passed any environmental law and DEP just kept granting extensions because we had no place else to go which is still the current situation in Norridgewock right now. But, there was water quality laws, fish and wildlife laws, stream alteration laws, a myriad of laws that would have come into effect and which did come into effect which took care of the situation in Norridgewock as well as that can be taken care of without picking it up and moving it to the moon.

I just wanted to show you that I would never — and those of you that know me know that — vote to take away a law that I thought was important for the protection of especially water quality and especially rivers and streams, since when I am not spending my time in this wonderful place, I spend most of my spare time in rivers and streams across the state doing what I like to do best.

The SPEAKER: The Chair recognizes the

Representative from Madison, Representative Ketterer.

Representative KETTERER: Mr. Speaker, Ladies and Gentlemen of the House: I am going to ask you to join Representative Treat in her effort to continue to maintain the current law as it has existed since 1971.

During the 115th Maine Legislature as was mentioned, there was an effort by the second floor to put in a budget bill the exact language which is here which has the effect of pulling this 20 some year old provision in the law. I immediately became suspicious when I saw in a budget document something which had no financial or fiscal impact whatsoever and something that repealed important legislation that had been around for more than two decades. That was brought to the attention of the 115th Legislature and, as was mentioned, it was soundly defeated. I am asking that the same effort be taken this morning by the 116th Maine Legislature in keeping the current legislation alive.

There is a variance provision so that if someone can show that it is a good idea to have solid waste less than 300 feet from a classified body of water which is basically any of them, then they can go ahead and do that upon making a good showing to representatives of DEP that that is fair and reasonable and does not endanger the health and safety of the citizens. So, it is not as if it is an absolute bar or prohibition because it simply is not. There is a variance provision which exists and can be utilized.

With respect to Norridgewock, I will tell you as a member of the House who happens to represent that community, I also have a law practice located there and I have been there for a number of decades myself, that the 300 foot setback requirement is vitally important. We have had everything you can think of, Norridgewock is the home of the international waste giant. We have special waste there. We have household waste there and I can tell you that a few years ago we had a landslide that some of you may have seen on television or read about in the print media. We have had everything you can think of contained in bodies of water that are adjacent to that structure and to that facility. The proprietors are making a genuine effort to see what they can do and to comply with all the Maine laws, but I don't think the right thing to do is to withdraw the 300 foot setback requirement, that is the length of one football field, it is a good buffer zone. I can tell you from all the stuff that they found in the water that the 300 foot setback may not even be enough but I assure you the idea of doing away with the 300 foot setback requirement is an even poorer concept.

I would urge you to reject that concept and keep current law.

Representative Treat of Gardiner was granted permission to address the House a third time.

Representative TREAT: Mr. Speaker, Men and Women of the House: I am just speaking to clarify something because I just got a note from someone saying, wouldn't it be better to amend this bill than to try to kill it? I am attempting to amend it. The House already amended this bill last week to put on an amendment which simply took out the one provision of this bill dealing with the repeal of the 300 foot law. When it went to the other body, it was stripped off, probably under the hammer just like it was put on here, and it has come back to the House.

If we recede and concur, then we will get rid of

the amendment that was put on in the House. If we do not recede and concur, which is how I would wish you to vote, we will keep the amendment on the bill and then we can go on to make another motion.

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

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

The SPEAKER: The pending question before the House is to recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 184

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Bennett, Cameron, Campbell, Carleton, Carr, Carroll, Cashman, Chonko, Clark, Clement, Clukey, Coffman, Coles, Constantine, Cote, Cross, Daggett, Dexter, DiPietro, Donnelly, Driscoll, Erwin, Farren, Foss, Gould, R. A.; Greenlaw, Gwadosky, Hale, Heino, Hichborn, Hillock, Hogle, Hussey, Jacques, Jalbert, Joy, Kerr, Kneeland, Kutasi, Larrivee, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Lord, MacBride, Marsh, Marshall, Martin, H.; Melendy, Mitchell, E.; Mitchell, J.; Nash, Nickerson, Norton, O'Gara, Paradis, P.; Pendexter, Plourde, Plowman, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Rydell, Saint Onge, Simoneau, Small, Spear, Stevens, A.; Strout, Sullivan, Swazey, Thompson, Townsend, G.; True, Tufts, Whitcomb, Zirkilton.

NAY - Adams, Beam, Birney, Bowers, Brennan, Bruno, Caron, Cathcart, Chase, Cloutier, Faircloth, Farnsworth, Farnum, Gamache, Hatch, Heeschen, Holt, Johnson, Ketterer, Michael, Michaud, Morrison, Oliver, Pineau, Pinette, Richardson, Simonds, Skoglund, Stevens, K.; Tardy, Townsend, E.; Townsend, L.; Tracy, Treat, Vigue, Wentworth, The Speaker.

ABSENT - Ahearne, Bailey, H.; Dore, Dutremble, L.; Fitzpatrick, Gean, Gray, Joseph, Kilkelly, Kontos, Lemke, Look, Murphy, Nadeau, Ott, Pendleton, Pfeiffer, Poulin, Rowe, Saxl, Taylor, Walker, Winn, Young.

Yes, 90; No, 37; Absent, 24; Paired, 0; Excused, 0.

90 having voted in the affirmative and 37 in the negative with 24 being absent, the motion did prevail.

The following items appearing on Supplement No. 1 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 to Establish a Full Employment Program as a Pilot Project in Certain Counties of the State" (S.P. 212) (L.D. 683) have had the same under consideration and ask leave to report:

That they are unable to agree.

(Signed) Senator LUTHER of Oxford, Senator HANLEY

of Oxford, and Senator PINGREE of Knox - of the Senate.

Representative RUHLIN of Brewer, Representative GEAN of Alfred, and Representative STROUT of Corinth - of the House.

Came from the Senate with the Committee of Conference Report read and accepted.

Subsequently, the Committee of Conference Report was read and accepted in concurrence.

SENATE PAPER

Ought to Pass Pursuant to Joint Order (S.P. 522)

Report of the Committee on Housing and Economic Development reporting "Ought to Pass" Pursuant to Joint Order (S.P. 522) on Bill "An Act to Implement Certain Recommendations of the Economic Growth Council" (EMERGENCY) (S.P. 530) (L.D. 1556)

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

Report was read and accepted, the Bill read once.

Under suspension of the rules, the Bill was read a second time and passed to be engrossed in concurrence.

The Chair laid before the House the following matter: An Act Related to the Site Location of Development Laws (H.P. 1105) (L.D. 1492) (C. "A" H-532) 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. 1492 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-532) was adopted.

The same Representative offered House Amendment "A" (H-632) to Committee Amendment "A" (H-532) and moved its adoption.

House Amendment "A" (H-632) to Committee Amendment "A" (H-532) was read by the Clerk and adopted.

Committee Amendment "A" (H-532) as amended by House Amendment "A" (H-632) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-532) as amended by House Amendment "A" (H-632) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act Concerning Stalking (H.P. 1147) (L.D. 1546) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Cote of Auburn, under

suspension of the rules, the House reconsidered its action whereby L.D. 1546 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-633) and moved its adoption.

House Amendment "A" (H-633) was read by the Clerk and adopted.

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

Representative CATHCART: Mr. Speaker, Members of the House: I urge you to support the adoption of this amendment and I wish to make a brief statement on the Record regarding "An Act Concerning Stalking."

The Judiciary Committee worked hard on this bill, which is a new bill pursuant to a Joint Order. As everyone knows, there was great support for a stalking bill in this session of the legislature and demonstration that such a bill was needed. We have a very moving hearing in which victims of stalking testified about their terrifying experience and the Judiciary Committee worked through many work sessions along with the Criminal Law Advisory Commission, which includes the Attorney General and the Commissioner of Public Safety, to craft the best possible stalking bill for the State of Maine.

If you have read the bill, you will have noticed that we did not amend the statute to include the word "stalking" and we thought it well to explain to the body why this was so.

If you look in most dictionaries, the dictionary defines "to stalk" as to "pursue by stealth." Most of you who are hunters would know what stalking means and you have probably done that kind of behavior yourselves. That may describe some of the activities that we are concerned about here but it rules out most situations that we think about as stalking that we are concerned about today. The blatant, obvious and menacing following of another person.

Current Maine Law already criminalizes any course of conduct engaged in with the intent to harass, torment or threaten another person and the committee believes this language covers the activity we commonly refer to as stalking. We did not want to craft a statute so broad that it would be unconstitutionally vague as some other states have done or to pull in protected activity. The Maine Supreme Judicial Court has found the harassment statute to be at least facially constitutional and we have no reason to believe that this new law will not be upheld as applied to stalking.

We have included language to clarify that stalking is covered under protection from abuse and protection from harassment orders, that a person under the crime of harassment does not need a protection order to have a stalker arrested.

The Judiciary Committee believes that we have crafted a law that will pass a court challenge, provide adequate permanent relief for stalking victims and punishment for stalkers and will address all the manifestations of this abusive behavior whether the victim is a teenage beauty queen, a celebrity, a state senator or as in the typical case, a battered woman. We believe that this legislation will stop stalkers in their tracks.

Subsequently, L.D. 1546 was passed to be engrossed as amended by House Amendment "A" (H-633) in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been

acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

(Off Record Remarks)

(At Ease until 4:00 p.m.)

The House was called to order by the Speaker.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

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

PASSED TO BE ENACTED

Emergency Measure

An Act Regarding Tax Anticipation Notes for Fiscal Year 1993-94 (H.P. 1156) (L.D. 1555)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Related to the State Valuation of the Town of Mexico (S.P. 432) (L.D. 1342) (C. "A" S-272)

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

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair regarding this bill.

This bill decreases the valuation of the town of Mexico by \$9.5 million and I was wondering if somebody could give me an explanation for why that is?

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

The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Men and Women of the House: The answer to that question is, it has kind of a long history, but the leadership of

the town of Mexico made a determination in the late 1980's to increase the valuation of a landfill that belonged to Boise Cascade from approximately \$2 million to \$12 million (those are round figures). There was an ensuing court case and, to make a long story short, Boise won the case and the final settlement, I believe, is \$2.9 million. This brings the state valuation back in line with what the real valuation of the town is. It is going to happen — the taxation basis for all towns is two years behind and this references 1991, just that one particular year but this is the result of a court case.

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

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

I heard that Oxford County has already issued their tax bills and were this bill to pass, they would have to reissue those bills, that would be an additional cost. Would that then make it a mandate?

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

The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Men and Women of the House: If I understand the question correctly, the reference is strictly to Oxford County taxes. The Oxford County Commissioners have already forgiven that portion of tax which is around \$6,200 and 90 percent of that would be the state's. So, no, it isn't a mandate because in fact that money will not change hands.

The SPEAKER: The Chair, for the Record, will need to advise members that the bill does contain an appropriation to cover the mandate reimbursement. If the bill becomes law, the state would pay \$5,850 which is 90 percent of the Oxford County taxes.

The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: With the increased taxation on this issue, it would also affect the school aid going to that district. So, this is something that I would agree with the Representative from Mexico, needs to be done and if we have to, for gosh sakes, let's vote the issue whether it has a mandate on it or not because this is getting that town's valuation up where it needs to be, which a few years ago was only 30 percent of its state valuation. They have brought that up to 100 percent, they deserve a lot of credit and a lot of support in this House.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Laws Relating to Harness Racing (H.P. 691) (L.D. 932) (S. "A" S-299 to C. "A" H-556)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Establish the Fund Insurance Review Board (H.P. 797) (L.D. 1083) (C. "A" H-615)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Mandate

An Act to Implement the Constitutional Requirement for State Funding of Mandates Imposed on Local Units of Government (H.P. 574) (L.D. 779) (H. "A" H-604 to C. "A" H-530)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of same and 4 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Later Today Assigned

An Act to Amend the Laws Governing Legislative Ethics (S.P. 321) (L.D. 974) (C. "A" S-271)

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

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

PASSED TO BE ENACTED

An Act to Provide Consistency in the Animal Welfare Laws (S.P. 345) (L.D. 1040) (S. "A" S-309 to C. "A" S-256)

An Act to Change the Statutory Provisions

Applying to the Dissemination of the Records and Reports Maintained by the State Police (H.P. 188) (L.D. 240) (C. "A" H-618)

An Act to Amend the Enforcement Provisions of the Bureau of Taxation (H.P. 844) (L.D. 1149) (C. "A" H-611)

An Act to Clarify the Laws Governing HIV Testing of Sexual Offenders (H.P. 1143) (L.D. 1543) (C. "A" H-619)

An Act to Establish the Maine Youth Apprenticeship Program (H.P. 1136) (L.D. 1536) (Governor's Bill) (H. "A" H-620 to C. "A" H-547)

Were reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Amend the Occupational Disease Law (S.P. 216) (L.D. 687) (H. "C" H-616 to C. "A" S-92 and H. "A" H-365)

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

Representative Aikman of Poland requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 185

YEA - Adams, Ahearne, Aliberti, Anderson, Bailey, H.; Bowers, Brennan, Cameron, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gould, R. A.; Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hognlund, Holt, Hussey, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lemke, Lemont, Martin, H.; Michael, Michaud, Mitchell, E.; Nadeau, Nash, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Plowman, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Simonds, Skoglund, Stevens, K.; Strout, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, R.; Barth, Bennett, Birney, Bruno, Carleton, Carr, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Joy, Kneeland, Kutasi, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Nickerson, Norton, Ott, Pendexter, Reed,

G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Zirnkilton.

ABSENT - Beam, Campbell, Gean, Hillock, Jacques, Kilkelly, Melendy, Mitchell, J.; Morrison, Murphy, Pendleton, Poulin, Saxl, Sullivan, Swazey, Young.

Yes, 86; No, 49; Absent, 16; Paired, 0; Excused, 0.

86 having voted in the affirmative and 49 in the negative with 16 being absent, L.D. 687 was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Resolve, to Transfer the Responsibilities of the Bureau of Rehabilitation from the Department of Human Services to the Department of Education (S.P. 487) (L.D. 1498) (Governor's Bill) (S. "A" S-300 to C. "A" S-291)

Resolve, to Establish the Academy for Public Service Study Committee (H.P. 874) (L.D. 1188) (S. "A" S-290 to C. "A" H-362)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, finally passed, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Encourage Implementation of Total Quality Management Procedures in the Executive Branch of State Government (H.P. 1142) (L.D. 1542) (Governor's Bill) (C. "A" H-581) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Joseph of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 1542 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-637) and moved its adoption.

House Amendment "B" (H-637) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-581) and House Amendment "B" (H-637) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Resolve, Authorizing the Ellsworth School Department to Transact a Land Exchange to Avoid Wetlands and Ledge Discovered During Project Development of the New Ellsworth High School (S.P. 523) (L.D. 1545) (S. "A" S-273) which was tabled earlier in the day and later today assigned pending final passage.

Subsequently, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker

and sent to the Senate.

The Chair laid before the House the following matter: 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) (C. "A" H-434) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Ahearne of Madawaska, under suspension of the rules, the House reconsidered its action whereby L.D. 1296 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-475) and moved its adoption.

House Amendment "B" (H-475) was read by the Clerk.

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

Representative AHEARNE: Mr. Speaker, Men and Women of the House: The reason why I have introduced House Amendment "B" is because I had a serious concern with a section of the bill that deals with the order of succession to the Governor. Currently when the office of Governor becomes vacant because of death or resignation or removal, the President of the Senate will fill the office of the Governor. In the bill, when the office of Governor becomes vacant, the Secretary of State will fill the vacancy. My objection is that the Office of Secretary of State does not presently include responsibilities in my opinion that qualify him or her to fulfill the vacancy. Unlike the President of the Senate, who is in the constant touch with day-to-day business of the state, the Secretary of State, at this time, is not in constant contact with businesses of the state. Therefore, I offer this amendment and I hope you will accept it.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: You have two choices before you today. Actually you have three choices. The first choice would be to popularly elect the Secretary of State. But, as far as the amendment before you is concerned, the original bill does say that the Secretary of State would succeed the Governor if a vacancy should occur. If you decide that the Secretary of State, now the only other person in State government that would in fact run a statewide campaign should succeed the governor, if a vacancy should occur, then you would defeat this motion.

This whole issue should be clarified by another amendment to make the title of the bill and the question going out to the people perfectly clear in a constitutional sense.

I will repeat for you, if you wish the Secretary of State, the only other person who by this measure would be popularly elected to succeed the Governor, if a vacancy should occur, you would vote against House Amendment "B". If you would simply want to elect the Secretary of State, you would vote for House Amendment "B" and not allow the Secretary of State to succeed the Governor if a vacancy should occur.

I would welcome any questions because it probably sounds confusing.

The SPEAKER: The Chair recognizes the

Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: It is true that in debating the bill of the popular election of the constitutional officers, the State and Local Government Committee did not attend much discussion time, if any indeed, to the issue of gubernatorial succession that was embodied in the original version of this bill and stayed with the bill as it now comes here for engrossment and enactment.

There are two important constitutional issues at stake, one is the popular election issue and the other is the issue that Representative Ahearne is dealing with and taking out of the bill which is the issue of gubernatorial succession.

My interest is to see the issue as clearly laid out before the voters as possible and, indeed, as clearly laid out before the legislature as possible. Therefore, despite the fact that this is the way the Revisor drafted the bill on my urging as the prime sponsor, I would encourage this body to deal with those issues separately. I encourage you to accept the pending motion to adopt House Amendment "B" and leave to future legislators in future years, once the people have adopted this amendment, the issue of gubernatorial succession.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I would ask that you support the amendment proposed by the Representative from Madawaska to adopt House Amendment "B" for the same reasons that he brought up. I just want to emphasize that the Secretary of State's statutory responsibilities are not terribly broad when compared with the Governor's. They encompass the corporations, elections, motor vehicle, archives and I think the Representative was correct when he said that on a day-to-day basis, the President of the Senate would be able to step in. That is not saying anything about any particular individuals, I am just speaking to the nature of the job and the responsibilities of the job. I would hope that you would support House Amendment "B."

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "B" (H-475). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

84 having voted in the affirmative and 25 in the negative, House Amendment "B" (H-475) was adopted.

Representative Bennett of Norway requested a roll call vote on passage to be engrossed.

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

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

The SPEAKER: The pending question before the House is passage to be engrossed as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 186

YEA - Ahearne, Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Beam, Bennett, Birney, Bowers,

Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Chase, Chonko, Clark, Clukey, Coffman, Constantine, Cross, Dexter, Donnelly, Dutremble, L.; Farnum, Farren, Foss, Gould, R. A.; Gray, Greenlaw, Heino, Jalbert, Johnson, Joy, Kneeland, Kontos, Kutasi, Larrivee, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Martin, H.; Michael, Mitchell, J.; Murphy, Nash, Nickerson, Norton, Oliver, Ott, Paradis, P.; Pendexter, Plourde, Plowman, Reed, G.; Reed, W.; Robichaud, Rowe, Simonds, Simoneau, Small, Stevens, A.; Sullivan, Taylor, Thompson, Tracy, Treat, True, Tufts, Vigue, Whitcomb, Zirkilton.

NAY - Adams, Carroll, Cashman, Cathcart, Cloutier, Coles, Cote, Daggett, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Hussey, Joseph, Kerr, Ketterer, Marsh, Michaud, Mitchell, E.; Morrison, Nadeau, O'Gara, Pfeiffer, Pinette, Pouliot, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Skoglund, Stevens, K.; Strout, Swazey, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Walker, Wentworth, Winn, The Speaker.

ABSENT - Aliberti, Clement, DiPietro, Hillock, Jacques, Kilkelly, Melendy, Pendleton, Pineau, Poulin, Saxl, Spear, Young.

Yes, 83; No, 55; Absent, 13; Paired, 0; Excused, 0.

83 having voted in the affirmative and 55 in the negative with 13 being absent, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-434) and House Amendment "B" (H-475) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act Concerning Technical Changes to the Tax Laws (S.P. 182) (L.D. 596) (C. "A" S-277) which was retabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-587) - Committee on Legal Affairs on Bill "An Act to Restrict Private Political Campaign Contributions in State Elections" (H.P. 1085) (L.D. 1451) which was tabled earlier in the day and later today assigned pending the motion of Representative Daggett of Augusta that the House accept the Majority "Ought Not to Pass" Report.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I hope you will accept the Minority "Ought to Pass" Report and reject the Majority "Ought Not to Pass" Report on this bill.

It may seem a little bit strange to see a Republican who is generally not in favor of taxes to be supporting and indeed sponsoring a bill that would

impose a fee of \$4 per taxpayer beginning in 1995 in order to help reform our finance system for campaigns. However, my feeling has been all along that there are severe effects that result from our existing private financing of campaigns that are only going to get worse as time goes on. We know that the cost of campaigns has been increasing very rapidly in this state. It has quadrupled for races in the other body. In the past eight years, the increases for this body have been less than that but they are still going up, double digits every time.

We are gradually getting ourselves into a situation where the traditional way that we finance our campaigns by going around and talking with friends in the district is becoming less and less a viable option for some of us.

Some of us, of course, either have no opponent or are able to raise money in the district. For these people, I say you are lucky. For an increasing number of people, however, this option is becoming obsolete because the cost of campaigns is going up, your opponent is going to start spending money on radio, maybe television, more fliers and, when your opponent does that kind of thing, you have to respond.

The money that comes in increasingly to fund these campaigns is money that comes from, (you pick the term) you could call it organized groups who have an interest in legislation, you could call it special interest, you could call it anything you want but the sum and substance of it is that they are groups who hope to influence your vote on matters that are of interest to them in the state legislature.

These groups obviously hope that in some fashion they are going to influence your vote, they have contributed to campaigns for a long period of time. If it didn't work, they wouldn't do it. Indeed, if you are a corporation and you are an officer of a corporation, you would be remiss if you just threw money down the tube by contributing to someone's campaign.

It is self-evident to everybody, perhaps everybody but legislators and candidates who tend to rationalize this away that these groups want something and that sometimes they get it. The effects of all of this, the bad effects of all of this, come down to the effects upon our public policy. If these groups are successful in affecting our public policy to their benefit, then it might be also to the benefit of the public-at-large but probably not in all cases. There is a price attached to that, we can't say that it is \$3 per person or \$6 or \$10 but obviously there is a cost. There is a cost because of the effect of special interest on their contributions to our campaigns.

The second effect, I think, is the effect on us as legislators and as candidates. I have talked with several people, freshmen legislators, who have had contributions from special interests, organized groups, PAC's, people outside of their district and they have expressed to me some kind of concern. They haven't faced the issue. They don't really know what to think about the idea of accepting money from somebody who hopes to influence them perhaps to the detriment of people in their district.

It is a dilemma really, isn't it? What if you have a contributor to your campaign who has a particular interest, perhaps it is not from your district, and what if that interest conflicts with people that you were elected to represent? What do you do? You may sit back and think that the people

in your district might not notice. Of course, you want to help the people who contributed to your campaign but you may feel qualms about doing so because when you were elected, you thought you had to represent the interest of the people who elected you — what do you do?

My impression is that it is the newer members of this body who struggle with this the most. As time goes on, we all kind of give in to the way things are, the way things work around here. We rationalize, we try not to think about it, we don't think about these moral dilemma's and pretty soon, we don't think about it at all but that doesn't mean that it isn't there. That doesn't mean that there has been a corruption of the process.

The other effect of all of this, in my opinion, is the effect on the electorate. It is self-evident to them that this special interest money buys influence, affects voting, and affects our public policy. It is self-evident to them that some of us rationalize it away. I have heard explanations, "Well, contribution gets access." Some people have said, "It is okay to reward your friends, isn't it?" Well, I am not sure that the people who contribute, organized groups who contribute to your campaign, are necessarily your friends. What I am sure of is that the knowledge of the electorate of the voters that this type of activity goes on contributes to a measure, to a degree, perhaps to a large degree, to the cynicism that we have seen in our electorate. If they believe that their vote is going to be overridden by a large campaign contribution, they are going to get cynical about it, they are going to think that the system doesn't work.

We are luckier here in Maine than in other states. The really big money hasn't come to Maine yet. People who are U.S. Senators have to raise \$20,000 per week to raise enough money for their next campaign. There are other states where candidates for the legislature spend \$100,000, a quarter of a million dollars, a half million dollars to get their seats. The influence of organized groups is greater than it is in Maine. Nevertheless, we are going to be facing in this state, as years go on, more and more of these contributions because the price of campaigning is going to continue to go up. All of us are going to face the moral dilemma of having to decide whether not to accept this money and risk defeat or whether to accept it and put ourselves in this moral dilemma.

I am going to stop talking now to let other people describe exactly what the bill that Representative Richardson and I proposed to do to solve this problem. I would be happy to answer question as they arise about this bill. I think it is an important bill. A lot of effort has been put into this bill by a lot of people. Actually the spectrum of supporters runs the ideological gamut from left to right.

The Legal Affairs Committee worked through the bill, I think, in a very comprehensive fashion and made improvements to it. Technically, I think the bill is in pretty good shape because a lot of work has gone into it. I hope after you hear the explanation concerning this bill, what it does, that you will vote for it, vote not to accept the Majority "Ought Not to Pass" and vote to accept the bill.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: We believe that this is the first time that an American state legislature has received a comprehensive campaign finance bill that will have the result with nominal exceptions of removing all private money from campaign politics that has been current in some areas in Europe for some time but never in the States.

The piece that is particularly significant is that after eight months we crafted a bill here, (we is quite a broad group as was mentioned) that is constitutional.

Campaigns for the Maine House, Senate and Governor are becoming more and more expensive. The facts are that the price of campaigns has soared, 358 percent increase in three election cycles. The money is coming in bigger and bigger chunks, 77 percent was over \$100 in the last cycle and less than one percent of Mainers contribute to any political campaign. Several Maine campaigns last time spent over \$60,000 and we know that routinely six figures is the average for House and Senate races in other states.

This political arms race must stop. This kind of money can never be raised by passing the hat among friends as in the old days. Increasingly, special interests fill the campaign coffers of candidates. These special interests do not give this money out of the goodness of their heart, they want something and very often they get it and the citizens of Maine end up paying for it. There is something wrong with this system and, as you know, our Constitution does not allow us to simply pass a law limiting campaign expenditures and we know the frustration and difficulty of voluntary limits, voluntary check-off's and the like, they don't work. You push in here and it comes out there.

Citizens should pay for campaigns, not special interests. We either pay now to control the special interests' involvement or we pay much more later for the tax breaks and other goodies they get for their contributions. For \$4 per taxpayer filer per year, Mainers can lower the cost of campaigns and keep private special interests from exercising undue influence.

What I would like to do is briefly, and there is a fact sheet in front of you which has one error on it which I would like to clarify, tell you exactly what the bill that has emerged from the Legal Affairs Committee, modified somewhat the work that has gone into it earlier by some experts who have been part of the discussion process of producing this bill, I would like to say what it basically does. It is really quite simple.

The money does come from a \$4 per year, per taxpayer filer fee. Four dollars per year and for that, we are going to take the government back to get the private money out of it. That is where the money comes from. That creates enough money to fund this and that creates enough money to administer it.

Where does the money go? The money goes, according to the schedule on the sheet, with one exception that I will give you, in terms of a credit that is held for candidates in a new division of elections and ethics combined, that credit is available to campaigns of those who commit themselves to the Maine Democracy Fund and who commit themselves to funding their campaigns only from that source.

There is still the choice of a candidate filing in the usual way as before and proceeding with private money but if that private candidate spends

beyond the limits of the Maine Democracy Fund, then there is a one for one match that comes from the Maine Democracy Fund to the participant in the fund, the candidate who participates in the fund, and it matches up to three times the amount of the limit. That should provide plenty of funds for the publicly funded one to clarify the one or two exceptions where somebody wants to abuse the system and spend endlessly.

Those financial accounts, in effect, for each candidate are retained in Augusta and are released under the authorization of the candidate consistent and under the budget limits that those allow. So, the candidate — we have suggested a method of doing it, contacts when they want to send money and there is a clearance number and a check comes forward out of each candidate's fund and there is adequate money to pay for the administration of that.

There is an opportunity for five percent of the total to be gotten by the candidate or his or her treasurer for purposes of petty cash for the appropriate receipts — much as now.

There is a match and a disincentive for privately funded candidates. The reality should be and the goals should be publicly funded, it is the way to go. The key point here is that costs come down because no longer is there a sudden ratcheting up of the cost of campaigns, instead there is a method, the 17 day rule, in which no late money comes in and there is a method of holding down the expenditures of campaigns to the limits that are before you on the fact sheet.

For the House of Representatives, an unopposed candidate in the primary and an independent candidate, who by definition goes straight to the General Election, receives \$500 for basic printing and administrative costs. A contested primary candidate has \$4,000 available. In the General Election, presuming opposition from some source, the General Election candidate has \$4,500 and, if a candidate is unopposed in the primary in the General Election has a total of \$1,000 for purposes of basic printing and dissemination of information about their stands and even though they obviously are going to win the election. The total amount then for an opposed House candidate in both the primary and the General Election is \$8,500, but that is what the opponent has.

There is no provision now by those who commit to choose for the Maine Democracy Fund for in kind contributions, they are gone. There is no provision for soft money except for a manner in which political parties may come together and in certain prescribed ways support a slate of candidates. Other than that, this so-called soft money is gone, the push in here and comes out there of limits that attempt to describe who can give but fail to realize the reality of bundling and other mechanisms of getting around existing law is gone. It is not a problem because there is no private money. Mechanism enforcement is adequate and of course the primary incentive for the mechanism is the opposing candidate.

We believe we have hammered out all the technical problems. We have suggested, along with the Legal Affairs input, a couple of ways that perhaps can be tinkered with and we have given some appropriate rule-making responsibility with provision for that to return to the appropriate committees and this legislature to handle those details. It is necessary for there to be something of a hoop for people to

jump through, candidates to jump through. So, the candidate who joins the Maine Democracy Fund does have to go through that hoop of a filing fee, \$250, and a petition of a minimum of 200. For that, they receive the money but they do not have to raise the money anymore because that is gone. They can still have events, bean suppers, grassroots environment, they just don't raise money at them for charitable purposes or whatever, they don't raise money for them.

All of those technical rules, we believe, have been handled in this bill. We are certainly happy to answer questions.

This is the first time an American legislature has had such a bill. It is the first time we have entered into this area. This is not a matching or voluntary program. It is not an environment in which you tinker with part private and part public like a presidential system. It does go all the way.

Finally, I would like to say, and then I will sit down and others will speak, there will probably be questions, I had the occasion to attend a conference in Holland a year or so ago and I met a Dutch parliamentarian there. Private contributions are still legal in Holland but their political system, they don't have a first amendment to worry about so they can do these things more easily, their political system allows allowances for candidates to provide basic forum and dissemination of information. The culture is different around campaign politics and around the linkage to lobbying. There was a day in these halls in which lobbyist weighed in heavily with money on public issues and bills. That day has gone in the kind of overt way that we have all read about. There will come a day in which the displacement of that involvement in public affairs with the difficulties of campaign finance and raising money for ever increasing campaign costs will, I think, too, be history. I think we will turn to a system, ratcheting down costs, holding down and eliminating the unnecessary part of campaigns, the media part of it, doing the basic printing, mailing and signs that are the wherewithal of direct communication with our constituents in our systems and our communities and essentially avoiding the network of campaign solicitation and that whole world will enable Mainers, I believe, to regain their government.

From my point of view, I no longer get involved with bills that go part way. I think we have to have a mechanism that brings fundamental change and the way in which Mainers interact with our political campaign and with our governmental system. I ask you to look at this system and to evaluate it. I ask, of course, for you vote for the "Ought to Pass" or your negative vote on the Majority "Ought Not to Pass" motion.

Representative Tracy of Rome requested a roll call vote.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Bowers.

Representative BOWERS: Mr. Speaker, Men and Women of the House: This is a revolutionary bill, this bill challenges you to think about money and its influence on politics.

This bill provides us the opportunity to show the good people of this state that we can step aside from our personal interests in getting re-elected.

This is a visionary bill. The revenues raised will cover all the cost of campaigns and all the administrative costs.

We need to take the special interests out of our elections and the only way to do that effectively without creating more rules and loopholes is to pass this bill.

I personally will be very happy to pay \$4 myself a year and I will be very happy not to receive dozens of fund-raising letter. Can you imagine how relieved you and your constituents and the people that gave to your campaigns in the past will feel to run a campaign without spending so much time raising money? We can discuss issues and not be beholden to anybody but the voters. That is a radical idea.

Let's do the right thing and vote against the Majority Report.

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

Representative BRENNAN: Mr. Speaker, Ladies and Gentlemen of the House: I think this is the time of year when I was almost going to go to the dictionary to look for new adjectives to describe legislation. We have heard bills described as important, significant, profound, now visionary and revolutionary. I don't have any new adjectives to describe this bill because I think the adjectives that have been used up to this point do describe the bill. This is an important bill, it is a significant piece of legislation.

We have all been involved in campaigns and the first thing that we do when we are campaigning is we look at whether or not we can raise money. The viability of the candidate and the viability of the campaign rests with whether or not we can raise money.

Unfortunately, ideas, ability and leadership have become subservient to whether or not we can raise money. Already we are having people that are running for Governor that are being dismissed because people don't think that they can raise money. They are not talking about whether or not they have good ideas, whether or not they are good leaders and whether or not they have abilities. They are saying they can't be a candidate because they can't raise money. That is wrong, that is not the way we should have campaigns in this state. Campaigns should be won or lost based on debating the ideas, not who raises the most money.

The public is very concerned about our political process. Unfortunately, they have latched onto such things as term limitations and downsizing as a remedy as to what they perceive as problems in the political process. I don't believe that we should be concerned with how many of us there are here, how long we are here, but we should be very concerned with the money that puts us here.

I think that this would be an opportunity for us to send a strong message that we are concerned about campaign reform and that we want to get the money out of the politics and put the idea and put leadership and ability back into the political process.

We are a citizen legislature. I believe that this bill will put the citizenship back in the legislature.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: I would like to pose two questions through the Chair.

For anyone in the House who is a supporter of the bill — the first is, is there anything in the bill that would prevent a good friend of mine from placing an ad in the newspaper supporting my candidacy? And,

is there anything in the bill that would prevent five of my good friends from placing large ads in the newspaper supporting my candidacy?

The second question is, would this bill not favor incumbents in this section in which a candidate needs to raise \$5 per 50 or for any 50 signatures on the initial signatures collected? What I am getting at is, if someone doesn't know me, and no one did when I was campaigning, they were happy to sign my petition to give me a chance to run. I am concerned that others would not be able to have that same chance.

I support this legislation but I would like someone to address those questions.

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

The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: To answer your second question first, the original bill had a provision that called for a \$5 contribution to be obtained whenever a candidate went out to get their petitions signed. That was removed from the bill in the amendment so that provision is not there anymore.

The reason for that provision was that we wanted to provide for a barrier or significant hoop that people had to jump through in order to qualify for the public financing.

What remains at this point is that a publicly financed candidate has to get (for the House) 200 signatures. Anybody who takes the option of not obtaining public financing, and that option is still there, would still have the normal amount that they have to get now which is 25. So, the Legal Affairs Committee thought that 200 signatures was enough of a barrier so that fringe candidates and candidates who are not serious candidates would be screened out and would not get the public money.

I believe your second question related to whether or not some friends of the candidate might go out and put ads in the paper — I believe the answer to that question is no. That is prohibited. There is a provision which allows political parties who wish to support five or more Maine candidates in advertising in different geographical areas to do so without having that amount count but that is a very limited exception.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair to anyone in the body who can answer.

Does the bill address the following: if you have a publicly financed candidate and a privately financed candidate in the same race running against each other, the private candidate exceeds the limit of the public candidate in spending, how does it address the problem with one candidate being able to outspend the other one?

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

The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: You are pointing to two different problems. Let me try to answer those as best as I can. Of course, the privately funded knows

the limit of the publicly funded. The privately funded starts to raise his or her money to the point of that by the filings with the commission. As soon as that privately funded goes past the publicly funded, the match goes like that, together up to three times the allowed amount for that election in that race.

There is a problem and the problem is overwhelming at the end of the election. What if a privately funded suddenly burst on the scene and we have crafted the 17 day rule, the privately funded candidate has to tell the commission 17 days out how much money he or she will raise or spend, both categories, and that money, if beyond that limit, is immediately credited to the opponent. The privately funded knows that if they go beyond that limit, that money comes over in credit to the publicly funded. That 17 day point is it that creates the playing field that follows through the rest of the election and it holds. If somebody violates it or if somebody puts out campaign signs that were not appropriate, they have violated the law and that is the prohibition under the Maine democracy because remember they chose to go into this and that means that we can ban the so-called indirect campaign support that the Representative from China was referring to.

I hope I have answered your question.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: After hearing from all these proponents, I am somewhat reluctant to stand up and speak as an opponent to public financing. I suppose it is possible that in the best of all worlds that perhaps candidates wouldn't have to raise their own money but I guess I am not sure that that is all that bad.

The Legal Affairs Committee has spent close to six months working with campaign finance issues. I am convinced that there are many ways to achieve campaign finance reform, many ways. It is a question, number one, of whether or not you feel it is a problem that needs to be addressed and how in fact you feel the the problem needs to be addressed.

The bill in front of you is one way to address that. I would just remind you that this bill does not prohibit private contributions. It would provide for public financing and, if you chose not to do that, you could finance your campaign privately. So, that is still an option under this bill.

One of the things that the committee looked at was exactly what are the goals of campaign financing reform. I think one of the goals, and I think there will be other bills in front of you, but when you look at this one you have to look at what are the goals and one of those is to try to begin to reduce expenditures.

I think for some of us here in the House that is difficult to see the problems because in fact the figures will show that house races have been fairly stable over the last three or four election cycles. The amount of money spent in a House race is not exorbitant, has not increased much and has been very stable. However, races for the other body have gone up approximately 358 percent over the last three election cycles. So, for some of us here it is hard to see where it is as big an issue as we talk about trying to reduce the amount we spend.

I think the other issue that we have looked at is

one of disclosure and the importance of the public being able to know where each of us gets the money that we spend to influence the outcome of our own elections.

So, in looking at those two goals as an overall campaign finance issue — regarding this particular bill, there is a \$4 per taxpayer charge on your income tax form. I think there are some people on the committee, and I am certainly one of them, that feels that if this legislature feels that public financing is that important, it should line up at the Appropriations Committee like others do. It seems as if a method for getting funding is for a number of cases to put a checkoff on the income tax form. I am sure there are many different interests that would love to have a checkoff. In fact, we have several there already. However, if you feel this should be funded, if you feel the public dollars should fund this, why shouldn't it go to the Appropriations Committee and justify the money that is needed? I raise that as an issue.

One of the other features of this bill is that it asks for a filing fee. Plenty of other states have filing fees but Maine has traditionally not prevented access to the ballots with filing fees, we have not prevented access to the ballot.

The other one I mentioned already is that it does not prohibit private contributions so that would not be prohibited by this bill if that is something that you are looking to prohibit.

Just to add here at the end, I would like to address an issue that was raised earlier by Representative Chase and that is the issue of an independent expenditure. This is already a part of current law and truly independent expenditures are allowed. This issue was addressed in another bill but they are allowed, they are to be truly independent and that is that the candidate or the candidate's committee is not to be out soliciting independent expenditures. If someone, out of the goodness of their heart, chooses to do something to benefit the election of the candidate, it has to be done truly independently and a disclaimer that indicates it was not paid for or authorized by the candidate will go on that and that is a provision of current law.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I am pleased, once again, to agree with the House Chair of the Legal Affairs Committee on which I am proud to serve, Representative Daggett.

This bill represents, in my mind, a radical departure in trying fiscal times. In this time when we are taking a look at reducing welfare for single mothers, subsidies for nursing homes and possibly raising taxes again on the working people of this state, we are considering using some of this money for what amounts, in my mind, to welfare-for-politicians. We don't have the luxury in these times for this bill.

We do have two campaign finance reform bills coming for deliberation later from Legal Affairs that make great strides in imposing voluntary limits and lowering the size of individual contributions which I think is the essence of the problem with money and politics. I am not necessarily opposed to some form of public financing but I would support it rather within the context of voluntary spending limits in

the fashion suggested by Common Cause.

I am opposed to taxpayers paying for election campaigns in the manner suggested by this bill and in these hard times.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I would like to address a couple of the issues that have been raised by the Representative from Augusta and the Representative from Norway perhaps to clarify a couple of things.

First, the existing system of private financing would be largely unaffected by this bill. People would still have the option of financing their campaigns in the traditional way. If you really believe that interest groups ought to finance your campaign, then you are perfectly free to use that system and to ignore the system of public financing altogether.

I think what would happen, if we pass this bill, is that there would be a change in the culture and that a publicly financed candidate would have a big advantage over a privately financed candidate, he or she would be constantly pointing out that he or she wasn't beholden to anybody and their opponent was.

Secondly, we do have a couple of other campaign finance bills coming along before this body. They attempt partial solutions, they have restrictions, they call for voluntary limits, they restrict certain types of contributions here and certain types there.

The history of campaign finance reform is that these things don't work. There was an article in my local paper, the Biddeford Journal Tribune which discussed all of this. Apparently someone had gone out and talked with all the people who had agreed to abide by voluntary campaign expenditure limits. My recollections is that there were about 20 or 22 such races and in the cases where the race got really close, the candidate, because it is a voluntary campaign expenditure limitation, simply ignored the voluntary agreement and went on to spend. Elections are contests and voluntary limits are only as good as the people who voluntarily follow them. In the context of an election, if it is your race and you are not bound, you will break the voluntary contribution limit or at least most people will.

There are other limitations in these other bills. They limit the amount that can be contributed by a single PAC or by a single person. The thing is, if there is a limitation on the amount that a PAC can contribute to a candidate, then somebody will go out and form some more PAC's. If there is a limitation on an individual contribution, you will get your friends or associates each to contribute. If that doesn't work, then you will contribute to a political party and wink and say, "I really want this to go to candidate X." That is so-called "soft money." There are a million ways to get around partial solutions, I think that has been proven at the national level.

The only effective bill, the only effective way to control this problem which is increasing here, it is bad other places and at the national level and it is increasing here, the only way to solve it is by swallowing hard and passing this bill which will provide that when you pay your taxes in April of 1995, you and every other citizen pays \$4, that is all, \$4.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and

Gentlemen of the House: I agree with the Representative from Norway, Representative Bennett, that this is a radical approach to funding political campaigns. In the fact sheet that was put on our desk this afternoon, it says that less than 1 percent of Maine people contribute to any political campaign. The question — do Maine people really want to pay for legislative campaigns? Whether they want to or not, if you pass this bill, you are mandating that every taxpayer who files a tax return is going to pay \$4. I think that is definitely the wrong approach.

I hope you will support the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Michael.

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

Is there a filing fee for a candidate who does not take public financing?

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

The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: The rule for privately funded candidates are exactly as they are today, there is no filing fee. If a candidate, for instance, is going simply go on the ballot against a well-entrenched incumbent of which there is not any prospect of success but they want another alternative on the ballot, there is no filing fee. The petitions are the same as they were before but they don't have access to the public funding. The reason for the filing fee and increased signatures is for access to the Maine Democracy Fund and public funding. For the \$250 and the filing, you receive the public money which, as I said, can be up to \$8,500 for a House candidate, that is the reason for it.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I do agree with the Representative from Norway that this does represent a radical approach to this issue. However, I part company with him at that point. I do think the issues is sufficiently important that it demands a radical approach.

I think the good Representative from Ogunquit made the key point or the key point to keep in mind in comparing this piece of legislation with other voluntary limit type legislation that will come before you and that is that this is a piece of legislation that has real teeth in it. Granted, the teeth are sharp, granted there are elements that are unpalatable.

The Representative from Rumford mentioned the issue that I myself had the biggest problem with, which is what some people might say is a pall tax to take the place of a poll tax. On the other hand, you have to balance off the price of \$4 with the price of "politics as usual", the price of the special interests in politics today. I think if you look at it that way, \$4 is not that much money.

This is a bill with real teeth. Voluntary limits are nice but there are no teeth — what are we going to do gum the special interests to death? No way.

I want you to keep that in mind when you consider this legislation. Do you really want to attack the

issue? This is an important step in that direction. If you really want to attack this issue — Lyndon Johnson once said that "money is the mother's milk of politics", I think that is probably true, but I think the milk has gone sour long past.

If you want to address that, then I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: If I understand this correctly, you have to pay \$4 in order to file your income tax return. If it is a joint return, you have to pay more. If it looks like a duck and it walks like a duck and I think it is a duck, sounds like a tax on filing an income tax return to me. It would be one thing if we debated this in Taxation and we discussed whether there ought to be a tax on a citizen's right to file an income tax return, but it disturbs me to think that — I can't call this a fee, it is a tax on filing your income tax return based on everything I have heard.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Bowers.

Representative BOWERS: Mr. Speaker, Men and Women of the House: I will try to keep this short.

It is a tax, \$4 per taxpayer is a tax, there is no question about that, but this is a tax where people will know exactly where it is going. They will know that that \$4 is going to fund public funding. It is not funding welfare-for-politicians, we already have welfare-for-politicians. You go in that other building down on the first floor and you look at some of those campaign finance reports and you know that there is welfare-for-politicians, you know that there are people eating out every night on their campaigns. You know that they are buying meals for their friends, they are buying their groceries, they are paying some of their household bills. We don't have any restrictions on that right now.

This bill will cause a lot of people to think about how they are spending their money. This bill will have those records available on computer because we are going to have a debit card system probably, where a candidate goes out for their printing and they are going to show their debit card and the vendor will call right into the office to get approval for that expenditure. I think it is going to be a little hard to do that at a local tavern or local restaurant. We know this is going on. That is what I call welfare.

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 West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: This is a radical departure and probably a radical departure with me getting up to speak for it. I had a campaign financing L.D. that died between the two bodies yesterday in what I call a somewhat dubious manner. This L.D. was signed by 76 other legislators of both sides of the aisle

and in both bodies which, to me, just proves again the need for something like this.

To me, this bill assures that the process will continue and it will continue to be a people's legislature.

I am not going to debate with Representative Dore whether this is a tax or a fee or whatever it is. It is one of the few times that my constituents can spend \$4 and they know where it is going and it is going to a good cause and I am sure they will support it.

I ask that you follow Representative Carleton's light.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: I did not mean to get involved with this issue, I take no pleasure in getting involved in this issue. I am for campaign finance reform and, if you want campaign finance reform, you fund it out of the General Fund or you come up with a special account to fund it, but what you have done here is you have done campaign finance reform with a tax that never went to the Taxation Committee. It was not discussed in the Taxation Committee and that is disturbing to me because we have a process in here too and the process is that when you put on a tax, it gets discussed by the 13 members of the Taxation Committee. It is disturbing for me to look at this and, I am sure there are members of my committee who are on this bill, and find that you found a way to fund this, that the tax that didn't come before the tax committee. Find a General Fund way, make me an amendment I can vote for, but I cannot vote for this.

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

Representative HEESCHEN: Mr. Speaker, I wish to pose a question through the Chair.

To anyone who may answer — is it true that an independent candidate who wishes to run for State Representative and wished to participate in this fund would have to get at least 400 signatures on a nomination petition?

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

The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: The answer is yes, we have followed the same proportion of signatures that is required presently for privately financed candidates when we get into the publicly financed candidate's arena. In other words, it takes 25 signatures if you are a party candidate privately financed now; it takes 50 signatures if you are an independent, two to one. We have merely carried over that formula. When we apply it through the publicly financed candidate arena, it takes 200 signatures if you are a party candidate. So, applying the formula for an independent candidate, you come up with 400.

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

Representative HEESCHEN: Mr. Speaker, I wish to pose a further question through the Chair.

May I ask if anyone considered, Representative Carleton or anyone who can answer, the possibility that because the hoop that an independent might have to jump through to participate in this sum would result in them not participating in it and then

perhaps they don't meet the limits and, frankly, moots the whole question of the limits in that particular race because they might end up spending more because of that first hoop they had to do? And, the other candidates wouldn't be bound by the limits either.

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

The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: I am not sure that I completely understand the question but I will do the best I can.

There is a balance that has to be struck when you are structuring one of these bills. On the one hand, if you believe in public financing, you obviously want people to use it. On the other hand, because public money would be involved, you have to have some hoops, some limitations, some way for a potential candidate to show that that candidate is a serious candidate in order for that candidate to get public money.

Originally, the way the sponsors thought perhaps we ought to gather \$5 from a certain number of people who signed your nominating petitions but the Legal Affairs Committee looked at that and thought that that perhaps would be administratively difficult and might create too high a fence to jump over.

We are comfortable with the additional signature requirements that the Legal Affairs Committee has settled on. I am not sure whether I have answered the question, I presume if I haven't, he will ask it again.

Representative Richardson of Portland was granted permission to address the House a third time.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: The first time that this law would come into effect would be in the legislative elections of 1996. There is a provision for the Commission to meet and work out the rules of this and bring it back to the legislature. That particular formula, remember, was quite a thorny one to figure out the appropriate hoop. Those issues will come back to this body because clearly there is a constant monitoring to ensure the essential level playing field of an environment here for creating that hoop that is high enough, allowing for candidates to still have the privately funded traditional route if they choose in creating the alternative culture.

I hope you would look with favor on the beginning of the development of this momentum here today.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Augusta, Representative Daggett, 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. 187

YEA - Adams, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Bennett, Birney, Bruno, Carr, Carroll, Cashman, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Cote, Cross, Daggett, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Foss, Gamache, Gean, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hatch,

Heeschen, Heino, Hichborn, Hogle, Hussey, Jalbert, Joseph, Joy, Kerr, Ketterer, Kneeland, Kutasi, Larrivee, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Martin, H.; Melendy, Michaud, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pinette, Plourde, Plowman, Pouliot, Rand, Reed, G.; Ricker, Robichaud, Rotondi, Ruhlin, Rydell, Saint Onge, Simoneau, Skoglund, Small, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Tardy, Taylor, Thompson, Townsend, G.; Townsend, L.; True, Tufts, Vigue, Whitcomb, Zirnkilton.

NAY - Ahearne, Barth, Beam, Bowers, Brennan, Cameron, Campbell, Carleton, Caron, Cathcart, Chase, Constantine, Farnsworth, Fitzpatrick, Gray, Holt, Johnson, Lemke, Marsh, Michael, Morrison, Oliver, Pfeiffer, Pineau, Reed, W.; Richardson, Rowe, Simonds, Townsend, E.; Tracy, Treat, Walker, Wentworth, Winn, Young.

ABSENT - Hillock, Jacques, Kilkelly, Kontos, Mitchell, J.; Pendleton, Poulin, Saxl, Spear, The Speaker.

Yes, 106; No, 35; Absent, 10; Paired, 0; Excused, 0.

106 having voted in the affirmative and 35 in the negative with 10 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Committee on Legal Affairs - Majority (10) "Ought to Pass" pursuant to Joint Order H.P. 1135 on Bill "An Act to Reduce the Influence of Money in Elective Politics" (H.P. 1150) (L.D. 1550) - Minority (2) "Ought to Pass" pursuant to Joint Order H.P. 1135 on Bill "An Act to Reduce the Influence of Money in Elective Politics" (H.P. 1151) (L.D. 1551) which was tabled earlier in the day and later today assigned pending acceptance of either report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and later today assigned.

The Chair laid before the House the following matter: An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices (S.P. 225) (L.D. 696) (C. "A" S-168) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

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

Ladies and Gentlemen of the House: The existing Commission on Governmental Election Practices members are appointed, as most members know, by a variety of appointing sources and then those nominees are approved by a two-thirds vote of the House and Senate. As I understand this particular provision, this would change or rather abolish the existing Commission on Governmental Ethics and Election Practices and replace it with a three member panel

with appointments made by the Judiciary and I am wondering if in the provisions of this bill if the new members of the Commission on Governmental Ethics and Election Practices that are going to be appointed by the Judiciary will be also be confirmed by a two-thirds vote of the House and Senate under the provisions of this bill?

The SPEAKER: The Representative from Fairfield, Representative Gwadosky, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The answer to the question is that they will not be confirmed by this body.

Representative Gwadosky of Fairfield requested a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 66 in the negative, L.D. 696 failed of enactment. Sent up for concurrence.

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

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

SENATE PAPER

Bill "An Act to Clarify the Law Concerning Aquaculture" (S.P. 531) (L.D. 1559)

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

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

Under suspension of the rules and without reference to a Committee, the Bill was read twice and passed to be engrossed in concurrence.

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

SENATE PAPER

The following Communication:

Maine State Senate
Augusta, Maine 04333

June 8, 1993

Honorable Joseph W. Mayo
Clerk of the House
State House Station 2

Augusta, Maine 04333

assigned for Wednesday, June 9, 1993.

Dear Clerk Mayo:

Please be advised that the Senate today insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act Establishing the Maine Community Reinvestment Program" (H.P. 590) (L.D. 794).

Sincerely,

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

Was read and ordered placed on file.

Reference is made to (H.P. 590) (L.D. 794) Bill "An Act Establishing the Maine Community Reinvestment Program"

In reference to the action of the House on June 7, 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 PINEAU of Jay
Representative ERWIN of Rumford
Representative CAMPBELL of Holden

On motion of Representative Coles of Harpswell, the House reconsidered its action whereby Bill "An Act to Clarify the Law Concerning Aquaculture" (S.P. 531) (L.D. 1559) was passed to be engrossed.

On further motion of the same Representative, L.D. 1559 was referred to the Committee on **Marine Resources**, in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Minimize Electric Rates" (S.P. 307) (L.D. 940) which was passed to be engrossed as amended by Committee Amendment "A" (S-159) as amended by House Amendment "C" (H-592) thereto in the House on June 4, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-159) as amended by Senate Amendment "A" (S-306) thereto in non-concurrence.

On motion of Representative Clark of Millinocket, tabled pending further consideration and specially

ORDERS

On motion of Representative CLARK, the following Joint Order: (H.P. 1160)

Ordered, the Senate concurring, that Bill, "An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1993-94," H.P. 859, L.D. 1168 and all its accompanying papers, be recalled from the Governor's desk to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 115)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1993 (EMERGENCY) (H.P. 1158) (L.D. 1557) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 115)

Report was read.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would encourage the House to give this bill its first reading at this time. Let me say at the outset that there appears to be a question as to whether or not this in fact is the budget that the York County Committee had adopted. If, indeed, that is the case, we can do something radically different to this, it can be amended, it can be indefinitely postponed, there are a variety of things that can be done. This would allow to move it one step further and then we would reconsider all our options tomorrow.

Let me say at the outset, my understanding is that there is some question as to whether or not the budget before us is actually the same budget that was originally adopted by the York County Committee. There is an issue of dispute. If you want to continue to keep the wheels grinding here, my suggestion is that we give this bill its first reading and then deal with this again tomorrow, not forgetting what I just suggested about the concerns about the bill, not to lessen the concerns because I think the concerns are very real.

If you find that that is an appropriate way to deal, that would give us the position to examine all our options tomorrow.

Subsequently, the Committee Report was accepted, the Resolve read once and assigned for second reading Wednesday, June 9, 1993.

Ought to Pass Pursuant to Joint Order (H.P. 115)

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY) (H.P. 1159) (L.D. 1558) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 115)

Report was read and accepted, the bill read once. Under suspension of the rules, the bill was read a second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Hussey of Milo,
Adjourned at 6:30 p.m. until Wednesday, June 9,
1993, at nine o'clock in the morning in memory of
Samantha Michelle Merrill of Portland.
