

# 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  
68th Legislative Day  
Monday, June 14, 1993

The House met according to adjournment and was called to order by the Clerk.  
Prayer by the Doctor Robert C. Frederich, First Baptist Church, Portland.  
Pledge of Allegiance.  
The Journal of Wednesday, June 9, 1993, was read and approved.

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

**COMMUNICATION**

The following Communication:

June 14, 1993

Hon. Joseph Mayo  
Clerk of the House  
State House Station #2  
Augusta, Maine 04333

Dear Clerk Mayo,

Pursuant to House Rule #1, I am today appointing Dan Gwadosky to act as Speaker Pro-tem during my absence on June 14th.

Sincerely,

S/John L. Martin  
Speaker of the House

Was read and ordered placed on file.

At this point, Representative Gwadosky of Fairfield was appointed to act as Speaker pro tem.

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

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

**Committee of Conference**

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: An Act Requiring a Guide for Certain Nonresident Aliens Hunting in the State (S.P. 400) (L.D. 1231) have had the same under consideration and ask leave to report:

That they are unable to agree.

(Signed) Senator LUTHER of Oxford, Senator O'DEA of Penobscot, and Senator HALL of Piscataquis - of the Senate.

Representative JACQUES of Waterville, Representative LARRIVEE of Gorham, and Representative ANDERSON of Woodland - 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 PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 9, 1993

The Honorable John L. Martin  
Speaker of the House  
116th Legislature  
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on Education:

Elizabeth B. Noyce of Bremen for reappointment to the Maine Maritime Academy Board of Trustees.

Walter E. Travis of Hampden for appointment to the Maine Maritime Academy Board of Trustees. Walter E. Travis is replacing Walter Cook.

Upon the recommendation of the Joint Standing Committee on Energy and Natural Resources:

Ronald J. Mallett of Old Town for appointment to the Board of Environmental Protection. Ronald J. Mallett is replacing Arthur Comstock.

Sincerely,

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

Was read and ordered placed on file.

**Ought to Pass as Amended**

Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-276) on Bill "An Act to Implement the Recommendations of the Special Commission on Electoral Practices" (S.P. 478) (L.D. 1477)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-276) as amended by Senate Amendments "C" (S-296), "E" (S-323) and "F" (S-325) thereto.

Was read.

On motion of Representative Paradis of Augusta, tabled pending acceptance of the Committee Report and later today assigned.

**Non-Concurrent Matter**

An Act to Increase Fees Charged by Municipal Clerks for Services (S.P. 398) (L.D. 1229) (H. "C" H-602) which failed of passage to be enacted in the House on June 9, 1993.

Came from the Senate passed to be enacted in non-concurrence.

Representative Joseph of Waterville moved that the House Adhere.

Representative Rowe of Portland moved that the House recede and concur.

Representative Bennett of Norway requested a roll call vote on the motion to recede and concur.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, I would just like to point out to you as the Chairman of the Board of Selectmen in the Town of Greenville, it has been some time now since we have had an increase in fees. I would encourage you, since the cost of operating offices and things have definitely increased, I would encourage you to support the recede and concur motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: I would certainly want you to support the recede and concur motion.

In talking with my Town Clerk over the weekend, we had a town meeting on Saturday, and as Representative Gould just said, they have not had an increase in many years. Actually, this money goes back to the municipalities. It takes it off our property tax relief, whatever they can take in. If I go to the state for this information, they charge me \$10. If I go to the municipality, we say they can only charge \$5. They have to do the research, they have to spend the time and in fact they spend more time doing it than the state does.

I urge you to support our municipalities and our local communities and have a little property tax relief and give them this benefit.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I certainly can understand that municipal clerks may think this is a good idea but I am concerned about the citizens and the people of Maine. I consider this a very small tax. I believe that we will be nickeling and diming the people of Maine. From the original bill, the fees for birth certificates and death certificates have been reduced from double to less than that. Therefore, I believe that this is simply a hidden tax to the people of the State of Maine and I urge you to vote against this motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: It is accurate that the increases for some documents, birth certificates, death certificates, was reduced from a doubling from \$5 to \$10 down to an increase from \$5 to \$7. That change was made in order to do two things, one, to relieve some concerns people had that \$10 was too high a fee.

The second was to acknowledge that there is in fact an increase in the cost but in fact it may not be a doubling of the cost, so those fees were changed. However, as long as the state requires that their statutory language on what these fees are going to be, I think we also need to be reasonable in acknowledging that the costs do go up. Everything goes up whether it is a light bill that runs the computer or the electric typewriter, all those costs have gone up and we must be responsive to the needs of communities to recoup the fees from the people that are using these services.

I don't believe that passing this bill is a hidden tax. I think the hidden tax is in not passing this bill because in fact what we are doing is we are denying that the fees, the cost of increase, and we are asking that the property taxpayers of our communities to pay this cost for people that are using this service. I think the hidden tax is in fact not passing this bill and that it is far more open and reasonable for us to acknowledge that by passing this bill we acknowledge that there has been an increase in cost and we are saying to the communities, yes, there has been an increase and you can recoup it from the people using the service.

I would urge you to support the recede and concur motion.

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

Representative BENNETT: Mr. Speaker, Men and Women of the House: I agree with Representative Kilkelly that this is not a hidden tax, this is a very overt and patently obvious tax, a tax increase that is going to be in the neighborhood of 40 percent with the amendments.

I might also point out that one of the reasons for this bill was that the fees that are currently charged under current law differ between the state and the local municipalities. There was a thought that we should make them the same and provide some consistency. Well, this bill as amended does not do that. It increases the tax, as I said, a minimum of 40 percent, but it doesn't even match the state anymore. I could understand this bill more if it did so.

I believe that there are few taxes, few fees, that should be borne generally by our government and

by our people. I do not believe that a user fee on death or a user fee on birth or a user fee on marriage is the right way to go with respect to these particular fees. I think that these are undertakings which are inevitable. In the course of a person's life, they have to be born by definition. They have to die by definition and most get married. I believe that we should bear the cost of these inevitable undertakings generally as a cost of our government as a whole rather than try to provide some mechanism for recouping the cost of the administration that government imposes on these undertakings.

I encourage you to vote against the pending motion so we can adhere and kill this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair to Representative Bennett.

Having said that user fees are not an appropriate way to collect fees for the services of birth certificates, death certificates and marriage licenses, I would like to ask Representative Bennett if he would then support a bill that would eliminate all fees for those services?

The SPEAKER PRO TEM: Representative Kilkelly of Wiscasset has posed a question through the Chair to Representative Bennett of Norway who may respond if he so desires.

The Chair recognizes that Representative.

Representative BENNETT: Mr. Speaker, Men and Women of the House: I would encourage the Representative to make that as an amendment on this bill and I would certainly consider it and probably vote for it.

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

ROLL CALL NO. 193

YEA - Adams, Ahearne, Aliberti, Anderson, Beam, Birney, Brennan, Bruno, Cameron, Carr, Carroll, Cashman, Chase, Clement, Cloutier, Coles, Cross, Daggett, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Gamache, Gean, Gould, R. A.; Hatch, Heino, Hochborn, Hillock, Hoglund, Holt, Hussey, Jalbert, Johnson, Joy, Kerr, Kilkelly, Kneeland, Kutasi, Larrivee, Lemont, Libby Jack, Libby James, Look, Lord, Marsh, Marshall, Melendy, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nash, Norton, O'Gara, Oliver, Pendleton, Pfeiffer, Pinette, Plourde, Pouliot, Reed, W.; Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Taylor, Thompson, Townsend, E.; Townsend, L.; Treat, True, Vigue, Walker, Wentworth, Winn, Zirnkilton.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Campbell, Cathcart, Chonko, Clark, Clukey, Donnelly, Dore, Fitzpatrick, Foss, Gray, Greenlaw, Hale, Heeschen, Jacques, Joseph, Kontos, Lindahl, Lipman, MacBride, Martin, H.; Nickerson, Paradis, P.; Pendexter, Pineau, Plowman, Reed, G.; Robichaud, Tracy, Tufts, Whitcomb, Young.

ABSENT - Carleton, Caron, Coffman, Constantine, Cote, Dexter, Gwadosky, Ketterer, Lemke, Michaud,

Nadeau, Ott, Poulin, Rand, Tardy, Townsend, G.; The Speaker.

Yes, 96; No, 38; Absent, 17; Paired, 0; Excused, 0.

96 having voted in the affirmative and 38 in the negative with 17 being absent, the motion to recede and concur did prevail.

Non-Concurrent Matter

An Act to Revise the Salaries of Certain County Officers (EMERGENCY) (MANDATE) (H.P. 1159) (L.D. 1558) which failed of passage to be enacted in the House on June 9, 1993.

Came from the Senate passed to be enacted in non-concurrence.

Representative Joseph of Waterville moved that the House recede and concur.

This being an emergency mandate, a two-thirds vote being necessary, a total was taken. 47 voted in favor of the same and 72 against and, subsequently, the Bill failed of passage to be enacted.

On motion of Representative Kilkelly of Wiscasset, the House voted to Insist and ask for a Committee of Conference.

Non-Concurrent Matter

An Act to Provide Access to Landlocked Property (MANDATE) (H.P. 1051) (L.D. 1403) (H. "A" H-646 to C. "A" H-529) which failed of passage to be enacted in the House on June 9, 1993.

Came from the Senate passed to be enacted in non-concurrence.

Representative Bennett of Norway moved that the House recede and concur and further requested a roll call vote.

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

Representative BENNETT: Mr. Speaker, Men and Women of the House: I believe there may be some confusion, maybe not, over this bill but the bill is a rather modest measure to provide some relief to those many people across the state that own property that they cannot get access to because it is landlocked by other properties. Currently under common law, folks can go to court and get a ruling that will provide them a private easement for the purpose of getting access to their land across other people's property.

The other solution is that sometimes in some

cases, depending on the historical context and what not, the municipality can provide a taking by eminent domain proceedings and the person can get access that way. Some of these properties are just in the development and planning stages. They were sold improperly so that a person couldn't get access. In other cases, there is a long history involved where an individual may have had access to their property for a long period of time and then new owner's come in and they are less likely or less eager to see people cross their land.

The bottom line is that this bill, which has been amended considerably, is very modest. It will only require that the municipality actually give a final answer on the issue if they are petitioned by a person with landlocked property on the narrow issue of whether or not the municipality will act on providing a public easement. Many times these people get their cases drawn out over a great length of time because they can't get an answer from the municipality. In the extent that this is a mandate, which was not recognized by the committee but was recognized by the Speaker's counsel as such, is that it does require the municipalities to act within a specified time period which may require additional dribbles of ink on some pieces of paper or it may require a little bit of extra paper in posting a notice to let people know that there is going to be a public hearing.

Most often, these public hearing notices will occur with notices for the public meetings that these decisions will be made at, so if it is a mandate at all, it is going to be a very marginal one of literally of less than a dollar.

I encourage you to vote for this because it does provide relief to a bunch of people in this state who often have to spend thousands of dollars and take up years of effort in order to get access to their land which is recognized under common law as it is. I think that you will find that there are many people across this state in each one of our districts, this being a rural state with a lot of woodlots, where this is a problem. I encourage you to please vote for this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: There is an old legal action expression that says "Let the buyer beware." If somebody buys a piece of land, they should be more careful in what they are buying. In this day and age when they take real estate and they cut it up, it is for one purpose and one purpose only, to make money. They will cut up a piece of land and then find out there is a piece left in the middle which hasn't been sold out. Somebody will come along and pay a very cheap price for it. By this bill, they then will be given access to that piece of real estate when they knew full well that when they bought it, it was landlocked. The people who bought pieces before, unbeknownst to them, are going to be saddled with a so-called easements for these people. They bought it title free and clear of any encumbrances of easements but when they come to sell it, because of this bill, they are now encumbered with an easement of someone else.

The good gentleman from Norway said something about woodlots. I would hate to buy a piece of land which is part of a development and that the person who was selling it being rather greedy, and I can

assure you there is a lot of greedy real estate owners in this state, finds that there is a piece of land of probably 30 or 40 acres in the middle of it (which I have seen in my own town) which is landlocked but is a woodlot. The gentleman or the young couple who bought a piece of real estate and improved it and have a nice piece of real estate find themselves with trucks going through their property to get to that woodlot.

I say again, let's go back to the caveat emptor, "Let the buyer beware." When somebody buys something, let them check it out. There are enough lawyers around to do a complete search to find out what gives.

Now, once they know it is landlocked, the old saying was you buy a piece of landlocked property and you know about it, also purchase a helicopter at the same time. There is no way possible that we should turn around and encumber somebody else's property because somebody was able to make a few bucks on a cheap piece of real estate which is stuck in the middle of all this other real estate.

I would ask that you vote against the motion to recede and concur.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Cameron.

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

To Representative Bennett of Norway — could you tell me what protections will remain for the landowner whose property the person owning landlocked property would attempt to cross as far as land damages and repairs of such?

The SPEAKER PRO TEM: Representative Cameron of Rumford has posed a question through the Chair to Representative Bennett of Norway who may respond if he so desires.

The Chair recognizes that Representative.

Representative BENNETT: Mr. Speaker, Men and Women of the House: I would be happy to answer that question because, again, I think the feeling about this bill continues to be misplaced. This does not change in any way the current process that is in place for a person to gain access to landlocked property. It not only deals with cases that Representative Jalbert points out where somebody may have purchased a plot of land in a development. As a matter of fact, the two or three cases that I am familiar with in Oxford County deal with cases where somebody has owned land for generations in a family and has always had a good relationship with his neighbors and then new people buy that land and suddenly they are saying, no, you can't cross my land. People are saying, well, I have had this easement by necessity for some time and there has never been a problem before and that individual has to take them to court. It does not change the provision for taking somebody to court to get a private easement.

There are cases where there is a public easement involved, maybe an old road involved that is discontinued and it would not change the compensation rights that come when the town decides to take a piece of land or reclaim a road if they are going to do that. So, this will not change anything currently in statute with regard to substance. It only moves the process ahead. It changes the process to the extent that it requires the town to act more expeditiously, it either gives the person a yes or no

answer. Most often, the town may simply say, no, we don't want to get embroiled in this unless it is clear cut, in which case the town will give perhaps a different answer. This gives no new rights. It does not give any rights of access, it does not ensure that a person gets their land, it does nothing of the sort.

I might add that this was a unanimous committee report originally and actually we have stripped the bill down from the way the report came out unanimously from the committee. It doesn't have anything to do with the taking of land. It has simply to do with moving the process forward so these people can get an answer to their question and then move it to the next step which may be the courts and which may be an easement by necessity and get the problem taken care of that way.

I think there is some confusion on it and I thank the Representative for raising the question.

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

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: I just want to confirm what you just heard. This bill does not grant the right to easements, it does nothing to harm the rights of adjacent property owners. All the bill does is establish a due process to expedite the adjudication of the granting of an easement to landlocked properties.

It is a good bill and I hope you vote with us to recede and concur.

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

Representative NORTON: Mr. Speaker, Men and Women of the House: This is a bill that I went to several hearings on and I listened to them as they took the power, what I consider the real power, out of it. It is nowhere near as strong as I would have it, although I believe in giving restitution to anybody whose property is in any way damaged through cutting trees or whatever. I think that is clearly established in the Constitution and is being reiterated recently in the highest court in this land. The restitution for one's property is to be honored. However, as a person who has bought and sold land for years, I never would ever sell a piece of landlocked property. However, at times, due to changing times and situations that one never encountered before, property does become landlocked. The changing of other property often creates an attempt to block right-of-ways. That never should be done. No one should have to languish for a decision over that. This bill is far watered down from the point that I had hoped it would be. However, it seems to me to be a step in the right direction of getting a person a possible answer without creating an endless trail of litigation at tremendous expense.

I urge you to vote for the recede and concur motion and hope that we can help some people in the process. I don't believe it is a reducing of other people's rights in any way. If I thought so, I certainly would not be supporting it.

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

Representative MARSHALL: Mr. Speaker, Members of the House: I would like to pose a question through the Chair to any member who might know the answer.

I realize it is illegal to create a subdivision that would create within the subdivision a back lot, is it legal to create or divide property that would

create somebody else's lot to be a back lot presently?

The SPEAKER PRO TEM: Representative Marshall of Eliot 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: My other job, my real job, is a real estate title attorney so I have some experience in this area. My answer to that question is, no, it is not illegal to create a landlocked parcel, if that's what the question is.

It is quite frequent that that occurs or has occurred especially in some of the more rural areas of our state. I think people may be foolish if they go and create a landlocked parcel but there are certainly lots of parcels around this state which are landlocked which have no clear access to them.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I wish to thank the good Representative from Wells when he used the word "foolish." If somebody does a foolish thing, why should we turn around and legalize it afterwards?

The good Representative from Norway mentioned a prescriptive easement, easements of necessity and so on, these are all on the books, they are common law easements. But, what we are doing here is creating another form of easement. They say, well, the gentleman who wished to have his land cleared can always go to court. Yes, anybody can sue if they have got the money. What about the individual who has to defend himself? Where will he or she get the money to defend themselves in court?

I know of a situation in my hometown where a gentleman bought a piece of real estate in the middle of what was a swamp, very cheap, practically for the asking. He tried everybody and his uncle to sign a release, they wouldn't. He had a lot of money to spend, he went to court, he bought a bill to quiet title, it cost him but it was worth it to him. Like I said, nobody else had to turn around and give him the easement.

If you go ahead and put this in — I can feel sorry for somebody who may have a piece of real estate and that is all they have got, they haven't got any money, but you are talking some times about big bucks, people with money. There are people who go around all over the State of Maine and buy this so-called land that nobody else wants or can't have. This will give them a chance with very little legal problems to have access to it.

I say again, it goes back to the rights of holding property. If I hold a piece of real estate which I have had for years, and I do own a piece of real estate and there is 100 acres behind me which is part of the old homestead, I know there are some pieces in there in that swamp behind me, they don't know where the line is. Why should this legislature give those people who bought that piece of land down in that swamp the right to go over my property through this? Let them go to court and prove to the courts the easement that they acquired either through prescriptive easement or easement of necessity.

We are opening up a can of worms here. This is a rural state, we are not talking about ten feet behind the post office in Lewiston or Portland, we are talking about some big money. So go ahead, put this in if you want to, but there will be somebody come

back and say that that was not what was intended.

I would ask that you defeat the motion to recede and concur.

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

Representative LORD: Mr. Speaker, My Learned Colleagues: In the small rural towns of the State of Maine, from time to time, we close roads. When you close a road, the abutting landowners own up to the center of the road. Unless the selectmen give an easement to the people in the back, and sometimes they don't, those people are landlocked. I think this is one way that they can get out of this mess. I think it is really necessary. I know of people who have been landlocked because the landowners took to the center of the road and they refused to give them a chance to go with. I think this is a case where it is going to help and I think it is needed.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I am pleased to follow the Representative from Waterboro because he helped explain the point that I want to make in speaking in support of the Representative from Norway's bill.

I had what I thought was a very disturbing call from a person who lives in one of my communities who is a disabled Vietnam vet, very, very upset that the property that he had purchased was on an abandoned town road and that the point that this bill addresses that was so important to this individual, who simply wanted a piece of property where he could have a home where he could live with his pension, completely disabled, he could not get an answer from the community as to the final disposition of the right-of-way. The property was purchased on a town road. I can understand the argument made, "Buyer beware" but the rules of the game change as the Representative from Waterboro just said and the town roads are this sort of no person's land about who owns it and who doesn't and who is responsible for the right-of-way.

The fact that this piece of legislation only addresses the aspect of giving an answer — I can't tell you the frustration of this individual who called me several times during the day, during the night, tried to reach me in Augusta, has tried to reach Congressional offices, a very, very upset individual who only wanted an answer.

I think this is a very useful piece of legislation, and I hope you support it.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I just rise once again to correct a couple of statements made by a previous speaker, the Representative from Lisbon, who said that this bill would create another form of easement, it does not. In no way does this create another form of easement. I encourage you to look at the original bill or look at the amended version, it does not do that. It is only a process oriented bill, it has nothing substantive with regard to granting new rights.

The second thing said was that this will give them the chance with very little legal problems to get access to it. That, unfortunately, is also not true. This bill as amended just simply ensures that they get an answer from the town. It is very, very modest, perhaps more modest than I wish, but it is

very modest and I encourage you, if anybody has any lingering doubts, to please read the amended version of the bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, I would like to pose a question to the Representative from Norway.

Where in the bill does this limit this so-called easement to easements which existed or may have died off and need to be reenacted such as old roads and so on? Does it prevent the creation of brand new easements? Where is it in the bill?

The SPEAKER PRO TEM: Representative Jalbert of Lisbon has posed a question through the Chair to Representative Bennett of Norway who may respond if he so desires.

The Chair recognizes that Representative.

Representative BENNETT: Mr. Speaker, Men and Women of the House: This bill does not change in any way the right that a person has to take their case to court. Obviously, the person has that right.

This bill, as amended, only deals with municipal response to a petition that is brought to the municipality with regard to the issues that Representative Lord was addressing which is ones of where there perhaps has been a former road that has been discontinued. It changes, in no way, current law with regard to the court process for granting easement by necessity.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Bennett of Norway that the House recede and concur. 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 is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 194

YEA - Ahearne, Aikman, Aliberti, Ault, Bailey, R.; Barth, Beam, Bennett, Birney, Bruno, Cameron, Campbell, Carr, Clark, Cote, Cross, Daggett, Donnelly, Driscoll, Dutremble, L.; Faircloth, Farren, Greenlaw, Heino, Hichborn, Hillock, Hoglund, Hussey, Johnson, Joseph, Kerr, Kutasi, Larrivee, Lemont, Libby Jack, Lindahl, Look, Lord, MacBride, Marsh, Martin, H.; Michael, Morrison, Nash, Norton, Pendexter, Pendleton, Pinette, Plourde, Plowman, Reed, G.; Reed, W.; Rowe, Ruhlin, Saxl, Simonds, Simoneau, Small, Spear, Stevens, A.; Tufts, Walker, Whitcomb, Winn, Young, Zirnkilton.

NAY - Adams, Anderson, Bowers, Brennan, Carleton, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Cloutier, Clukey, Coffman, Coles, DiPietro, Dore, Erwin, Farnsworth, Farnum, Fitzpatrick, Foss, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Holt, Jacques, Jalbert, Joy, Ketterer, Kilkelly, Kneeland, Kontos, Libby James, Marshall, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nickerson, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pouliot, Ricker, Rotondi, Rydell, Saint Onge, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Taylor, Thompson, Townsend, E.; Townsend, L.; Tracy, Treat, True, Vigue, Wentworth.

ABSENT - Bailey, H.; Clement, Constantine, Dexter, Lemke, Lipman, Melendy, Michaud, Ott, Pineau, Poulin, Rand, Richardson, Robichaud, Tardy, Townsend, G.; The Speaker.



Yes, 66; No, 68; Absent, 17; Paired, 0; Excused, 0.

66 having voted in the affirmative and 68 in the negative with 17 being absent, the motion to recede and concur did not prevail.

Subsequently, the House voted to Adhere.

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**ORDERS**

On motion of Representative HICHBORN of Howland, the following Order:

ORDERED, that Representative Robert B. Carr of Sanford be excused June 3 and 4 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Hugh A. Morrison of Bangor be excused June 4 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Eleanor M. Murphy of Berwick be excused June 4 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jane W. Saxl of Bangor be excused May 7, 10 and 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Robert W. Spear of Nobleboro be excused May 28 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Julie Winn of Glenburn be excused June 8 for legislative business and June 9 for personal reasons.

Was read and passed.

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**FINALLY PASSED**

**Emergency Measure**

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 (H.P. 1112) (L.D. 1508) (Governor's Bill) (H. "A" H-600 and S. "B" S-314 to C. "A" H-516)

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. 121 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker pro tem and sent to the Senate.

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**ENACTOR**

**Emergency Measure**

**Later Today Assigned**

Resolve, Directing Release of Investigative

Records Related to Ballot Tampering (H.P. 1003) (L.D. 1349) (C. "A" H-657)

Was 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.

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**FINALLY PASSED**

**Emergency Mandate**

Resolve, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1993 (H.P. 1158) (L.D. 1557)

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: I request a roll call.

If this budget does not pass, I checked this morning with Doreen and asked what we would do and she said a Resolution would go back and it would revert back automatically to last year's budget. So, the only one you are hurting is York County and the people who work there if you don't pass this budget. I am talking to the York County Delegation right now.

The SPEAKER PRO TEM: The Chair recognizes the Representative Wiscasset, Representative Kilkelly.

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

My opposition to this is not anything to harm the citizens of York County. My concern is, if this is a mandate, is there an increase in the budget? If there is an increase in the budget, does that mean the state would in fact need to fund that if it did not pass as a mandate? I am concerned about why the county budget would be considered a mandate.

The SPEAKER PRO TEM: Representative Kilkelly of Wiscasset has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: To my knowledge, the county budget is not a mandate except that we have always had to have two-thirds. It is a budget we have to pass. Yes, it is an increase, an increase of almost \$500,000, but it is not a mandate under our mandate law, I don't believe. If it is, I guess there are some other county budgets that we better bring back and vote down because we are going to be paying for them.

The SPEAKER PRO TEM: For clarification for all members, the Chair would make the suggestion that there is in fact a mandate provision on this bill. There is on every county budget bill to my knowledge, as they do require local municipalities to allocate funds for the purpose of paying for these county budgets.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Dutremble.

Representative DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: Last week, I called the administrator of York County and the budget last year was \$5,700,000. Up to May, five months, operation costs were \$2,300,000. If they go the same amount for the rest of the year, they are going to spend \$5.7 million. What we agreed on — we agreed to give them \$6.1 million so that is an increase of \$400,000. I think, myself, they can live with that.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The question that Representative Kilkelly raised is a legitimate question. I can't answer that question but the reason for county budgets being mandates is that county government is funded on an assessment to the communities and the communities pay that through their property tax whether or not the county, whether or not the state, would be responsible for 90 percent which the mandate law says would be another question. However, because of the two-thirds vote which circumvents the Constitutional Amendment, then in fact the state would not be liable. The question is a legitimate question for those who would assume that a mandate would be in place and that the state would have to pay 90 percent but with the two-thirds vote that is required for county budgets, emergency measures, and with the two-thirds override provision in the Constitutional Amendment, this county budget and all county budgets do have the mandate provision.

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

ROLL CALL NO. 195

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Carroll, Cashman, Cathcart, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Daggett, Dexter, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Gamache, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hatch, Heino, Hichborn, Hillock, Hoglund, Jacques, Jalbert, Joseph, Joy, Ketterer, Kneeland, Kontos, Kutasi, Libby James, Lindahl, Look, MacBride, Marshall, Martin, H.; Melendy, Michael, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Paradis, P.; Pendexter, Pendleton, Pinette, Plourde, Plowman, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Rowe, Ruhlin, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Sullivan, Swazey, Tardy, Taylor, Thompson, Townsend, L.; True, Tufts, Vigue, Walker, Whitcomb, Winn, Young, Zirkilton.

NAY - Adams, Bailey, H.; Beam, Bowers, Brennan, Chase, Coles, Faircloth, Fitzpatrick, Gean, Gray, Heeschen, Holt, Hussey, Johnson, Kerr, Kilkelly, Larrivee, Lemont, Lord, Marsh, Mitchell, J.; Oliver, Pfeiffer, Richardson, Rydell, Saint Onge, Stevens, K.; Tracy, Treat, Wentworth.

ABSENT - Constantine, Cross, Lemke, Libby Jack, Lipman, Michaud, Morrison, Ott, Pineau, Townsend, E.; Townsend, G.; The Speaker.

Yes, 108; No, 31; Absent, 12; Paired, 0; Excused, 0.

108 having voted in the affirmative and 31 in the negative with 12 being absent, the Mandate was finally passed, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

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; and S. "B" S-320)

An Act to Clarify the Law Concerning Aquaculture (S.P. 531) (L.D. 1559) (C. "A" S-322)

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

PASSED TO BE ENACTED

An Act to Minimize Electric Rates (S.P. 307) (L.D. 940) (S. "A" S-306 to C. "A" S-159)

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

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

Representative HOLT: Mr. Speaker, Men and Women of the House: Once more, let the Record show clearly and emphatically that enactment of L.D. 940 as amended is founded on the belief that all Maine consumers of electricity would benefit from any rate design that might result from an interpretation of its intent.

Passage of L.D. 940, "An Act to Minimize Electric Rates" is based on the assurance found in Section 3 which states, "Nothing in this Act is intended or may be construed to discourage energy conservation and management programs or to encourage continued or additional use of electric baseboard resistant heating systems" and further, "Nothing in this Act may be construed to encourage or discourage the development or implementation of any particular rate design."

It is of critical importance to the well being of the state that no entity whatsoever construes the intent of this Act to mean approval of the abandonment of energy conservation and efficiency as a state policy or as an endorsement to return to declining block rates.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sedgwick, Representative Gray.

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

My understanding in this bill, and I have tried to keep track of it, is that on the low end, you take out the 750 kilowatt users and on the top end, you are taking out the industrial users which means a 200 to 300 percent increase to the small businesses. Could someone elaborate on how I have come up with this or if I am wrong?

The SPEAKER PRO TEM: Representative Gray of Sedgwick has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I think the way you read it, Representative Gray, is you are reading it wrong. That is not the intent and that is not the way it is put together. We are trying to protect the low users, the residential people and everybody involved.

I hope that when you take a look at this bill today — we have had this around 17 different times. We have worked this bill to the fashion where it would make it acceptable to just about everybody.

I hope when you vote today, you will vote for this bill and send it on its merry way.

Also, I might add, this have been around 17 times and has had a strong vote every time it has come down through, 90 votes or better. I hope you vote the same way today.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: I admit the title of this bill sounds good and the verbiage around the assurances sounds good but the reality is this bill still has an incredible amount of conflicting and confusing provisions.

One thing I will note is that the so-called assurances that occur in Section 3 to protect residential ratepayers under 750 kilowatt hours per month do not — the language was taken out of there that would protect them from incentive rates. That got moved up to H, so they are no longer protected from that.

I also want to note that there is the sentence in there that says, "Nothing shall be construed to require that rates increase on 750 or less" but then the next sentence says "Notwithstanding nothing to prevent you from raising the rates for those buying 750 or less."

We have had another bill in here that a lot of people have spoken in favor of and that is the bill dealing with essentially putting the legislature in the business of writing rules. The way we got that bill was from any number of other bills that had the kind of sloppy, confusing, contradictory, unintelligible language that this particular bill has.

When the Public Utility Commission eventually makes a ruling based on the language here as convinced by the Utility who is putting on its case that in fact, although nothing compels and nothing requires, in fact you should do it, when they do that, what are we going to do rewrite the rules? No, we are not. Are we going to overturn a case at the PUC?

This language will be decided in case law, the quasi-judicial setting of the Public Utility Commission, we are not going to have the ability to

review these rules, we would have to overturn a decision of the Public Utility Commission.

I would urge you to oppose this bill because it is so confusing, it is the kind of bill that results in us having terrible rules that we want to just write ourselves.

Once again, please vote to oppose this bill.

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

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: I will keep it brief because we have talked about this bill and talked about this bill and talked about this bill. It looks like we are going to talk a little more.

I think Representative Clark has pointed out that we had a strong vote on this. What this does is clarify some points to the Public Utilities Commission, things that we would like them to consider when they are going through a rate case. I think it makes it very clear and we have made some amendments for some concerns of folks that were referred to by Representative Heesch. I don't think it complicates it, it just clarifies it and I hope you will vote, once again, to support this bill.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: In all due respect to the Chair of the Committee, the reason this bill has been around so long, I believe, is that the members who signed onto the Majority "Ought to Pass" Report filed, I think, at least six different amendments, versions, to clarify the language that they had endorsed in the Majority Report.

Those of us who signed onto the Minority "Ought to Pass" Report found a much cleaner, simpler, direct way to get at some of the policy issues that we believe the sponsor of the bill was intending for this language to address.

I will be voting against enactment, believing, however, that if this bill passes, it is not in any way intended to change Maine's energy policy.

For the Record, you should all be aware that those of us who have contributed to this debate and spent many hours working on this issue in committee did not ever believe that this bill was intended to change the long history of conservation and energy efficiency which is part of Maine's energy policy.

Those of us on the Minority Report are very concerned that the language in the Majority Report and in the subsequent amendments to that bill that was designed to clarify, according to the Representative from Presque Isle, do in fact make this a much less useful, much more bewildering, much less clear policy statement, when what we tried to do in our committee was make our issues as clear as we can in order to direct the PUC.

I will be voting against enactment because I think this language does not do in any shape of the imagination what the original sponsor intended.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I just want to make one thing clear. The reason why these amendments were added was not because the Majority Report wanted to change anything, but a number of people from the Minority Report went to the presiding officer requesting some changes be made and we are trying to make those

changes to suit the Minority Report to make sure they had a bill that we all could live with. That was the only reason, it had nothing to do with the Majority Report on this bill or the people on the bill, we were just trying to make the bill a little bit better, more palatable for everybody to live with.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Rand.

Representative RAND: Mr. Speaker, I would like to pose a question through the Chair to any member who signed onto the Majority Report.

Could you please explain how the PUC can give equivalent consideration to both the rates and the cost?

The SPEAKER PRO TEM: Representative Rand of Portland has posed a question through the Chair to any member who may respond if they so desire.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I will attempt to answer your question. What they will try to do when they are doing rates and costs, is when they are figuring out what the rates are, they have to go through what it costs to recover those costs. As they go through that process, they have to consider all the lists, the list of items will be considered equally when making those rates.

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

Representative HOLT: Mr. Speaker, Women and Men of the House: I would like to remind you in reference to this bill that our Public Utilities Commissioner, William Nugent, wrote to our Utilities Committee on March 31st, "We believe the existing statute, what we already have in law now, gives us all the authority we need to reverse longstanding policies if the facts support that. We are now engaged in a rigorous examination of those facts" and you can sit in on those rigorous examinations in the weeks to come.

I move that we table this for one legislative day.

The SPEAKER PRO TEM: The Chair would inform the Representative that having debated the motion that she is unable to make the motion to table at this time, it would require someone else to make that motion.

The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: This bill is not about whether or not we like public utilities in general or electric power companies in particular. The purpose of the bill is to instruct the Public Utilities Commission to balance their concern for long-term conservation with an equal regard for short-term rates. If the commissioners had this power in the past, they have not done it. The balance has been missing for the past decade and the effect has helped provide the large increases we have been subjected to.

This bill has been amended to protect all classes of ratepayers. The bill should have only a good impact on power rates. Please vote enactment of this bill.

Representative Holt of Bath moved this bill be tabled one legislative day.

Representative Donnelly of Presque Isle requested a vote on the motion to table.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the

motion of Representative Holt of Bath that L.D. 940 be tabled one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Saxl of Bangor requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of Representative Holt of Bath that L.D. 940 be tabled one legislative day.. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 196

YEA - Adams, Beam, Bowers, Brennan, Carroll, Cashman, Cathcart, Chase, Clement, Cloutier, Coles, Cote, Daggett, Dore, Erwin, Faircloth, Farnsworth, Gean, Gray, Heeschen, Hoglund, Holt, Johnson, Joseph, Kilkelly, Kontos, Larrivee, Michael, Mitchell, E.; Mitchell, J.; Murphy, Oliver, Pfeiffer, Pineau, Pinette, Rand, Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth.

NAY - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Caron, Carr, Clark, Clukey, Coffman, Cross, Dexter, DiPietro, Donnelly, Driscoll, Dutremble, L.; Farnum, Farren, Foss, Gamache, Gould, R. A.; Greenlaw, Heino, Hichborn, Hillock, Hussey, Jacques, Jalbert, Joy, Kerr, Ketterer, Kneeland, Kutasi, Lemont, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Melendy, Morrison, Nadeau, Nash, Nickerson, Norton, O'Gara, Paradis, P.; Pendexter, Pendleton, Plourde, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Sullivan, Tardy, Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Winn, Young, Zirkilton.

ABSENT - Bailey, H.; Carleton, Chonko, Constantine, Fitzpatrick, Gwadosky, Hale, Hatch, Lemke, Libby Jack, Lipman, Martin, H.; Michaud, Ott, Townsend, G.; The Speaker.

Yes, 53; No, 82; Absent, 16; Paired, 0; Excused, 0.

53 having voted in the affirmative and 82 in the negative with 16 being absent, the motion to table did not prevail.

The SPEAKER PRO TEM: The Chair recognizes the Representative Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: Thank you very much for a second opportunity to speak on this issue.

I want to read into the Record testimony on behalf of the Public Advocate when this bill was first heard. The Public Advocate urged the committee to reject L.D. 940 when he presented his testimony to us on March 31st. The reason for that — and I will skim to some of what I think are the more relevant sections, "I do not believe that it is necessary to establish in the Electric Rate Reform Act a broad

policy when the PUC is already acting to implement the identical objectives." I continue, "Secondly, I think it unwise to put this policy objective into the form of a statutory mandate until we have gained more experience with the incremental energy and load retention programs which are now in place. Furthermore, there is a major proceeding now underway at the PUC which is examining the long-term transfer cost on CMP's system, Docket 92315. This case will answer the important question — over the long run, are CMP's customers, the people that you and I represent, going to be better or worse off if we sell more power and build new load? The answer to this question over a long run perspective is by no means clear today despite the contentions of the utilities to the contrary." In closing, the Public Advocate in his remarks to the committee said, "For each of these reasons, we urge the committee to reject L.D. 940 for now, give the PUC the opportunity of completing its current resource planning docket and of evaluating the merits of existing incremental energy programs."

I want to make sure that is on the Record for the body to pursue later on. If you vote for enactment, you will have to answer to your constituents for the action you are taking. Many of us believe it is the wrong action to be taking at this time. I urge you to vote against enactment.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I am kind of glad the Public Advocate's name was mentioned here today. Most of us didn't know where he was coming from at any given time. One time he would be in favor of the bill, next time he would be opposed to the bill. He wrote off on the bill, so I hope when you vote today, you don't take a lot into consideration what was just read into the Record because none of us really knew where he was coming from.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: A lot of things have changed in the bill since that letter was written to the committee. A lot of things that the Public Advocate signed off on and said that he was neither for nor against, there is a letter that came across our desks earlier last week that said with some of the changes in there, he was not in favor of it, but was no longer against it. Besides that, we are elected by the people and not the Public Advocate.

The SPEAKER PRO TEM: 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.

Representative Adams of Portland requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: 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. 197

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Caron, Carr, Clark, Clukey, Cote, Cross, Dexter, DiPietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Foss, Gould, R. A.; Greenlaw, Heino, Hillock, Hussey, Jalbert, Joseph, Joy, Kerr, Ketterer, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Melendy, Michael, Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Plourde, Plowman, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Sullivan, Tardy, Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Winn, Young, Zirkilton.

NAY - Adams, Beam, Bowers, Brennan, Carroll, Cashman, Cathcart, Chase, Chonko, Clement, Cloutier, Coffman, Coles, Daggett, Dore, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gray, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Kilkelly, Kontos, Larrivee, Mitchell, E.; Mitchell, J.; Oliver, Pfeiffer, Pinette, Poulin, Rand, Richardson, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth.

ABSENT - Bailey, H.; Carleton, Constantine, Gwadosky, Jacques, Johnson, Lemke, Martin, H.; Michaud, Pineau, Townsend, G.; The Speaker.

Yes, 85; No, 54; Absent, 12; Paired, 0; Excused, 0.

85 having voted in the affirmative and 54 in the negative with 12 being absent, L.D. 940 was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

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

PASSED TO BE ENACTED

An Act to Amend the Motor Vehicle Emission Inspection Program (H.P. 1005) (L.D. 1351) (H. "B" H-583, S. "A" S-301 and S. "B" S-318 to C. "A" H-537)

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

ENACTOR

Later Today Assigned

An Act to Strengthen the Public Disclosure of Lobbying Activities (H.P. 1038) (L.D. 1390) (H. "A" H-593 and S. "A" S-317 to C. "A" H-528)

Was 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.

**ENACTOR**

**(Reconsidered)**

An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes (H.P. 1060) (L.D. 1428) (Com. of Conf. "A" H-649)

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

On motion of Representative Rowe of Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 1428 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee of Conference "A" (H-649) was adopted.

On further motion of the same Representative Committee of Conference "A" (H-649) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-661) and moved its adoption.

House Amendment "B" (H-661) was read by the Clerk.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: House Amendment "B" is simply a technical amendment. It actually amends the text contained in the Committee of Conference Amendment. The Amendment addresses the possible ambiguity in the text of the Committee of Conference Amendment that was raised by Representative Bailey of Township 27 last week.

I hope you will support House Amendment "B."

Subsequently, House Amendment "B" (H-661) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" (H-661) 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 Wednesday, June 9, 1993, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

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

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

TABLED - June 9, 1993 (Till Later Today) by

Representative MITCHELL of Vassalboro.

PENDING - Adoption of House Amendment "B" (H-643) to Committee Amendment "A" (H-544)

On motion of Representative Joseph of Waterville, retabled pending adoption of House Amendment "B" (H-643) to Committee Amendment "A" (H-544) and later today assigned.

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

An Act to Remove the Repeal Date from the Laws Governing Equitable Insurance Coverage for Mental Illness (EMERGENCY) (H.P. 138) (L.D. 183) (C. "A" H-582 and H. "A" H-607)

TABLED - June 9, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Dore of Auburn, under suspension of the rules, the House reconsidered its action whereby L.D. 183 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-607) was adopted.

On further motion of the same Representative, House Amendment "A" (H-607) was indefinitely postponed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-582) was adopted.

The same Representative offered House Amendment "A" (H-660) to Committee Amendment "A" (H-582) and moved its adoption.

House Amendment "A" (H-660) to Committee Amendment "A" (H-582) was read by the Clerk.

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

Representative DORE: Mr. Speaker, Men and Women of the House: What you have just seen is a proposed amendment to L.D. 183 that removes the Emergency clause and it takes the bill out another six months.

The purpose of that — and if you look at (H-660) on your desk — instead of a simple bill that removes the sunset ending discrimination, you see an eight page bill, and what that does is put all the language in from the legislation a year ago and removes the sunset. The purpose of that is that the other body cannot give us the two-thirds vote we need in order to pass the legislation.

I would like to remind you that in the House we had a vote on this about a week ago Friday and the vote was 88 to 10. It has been bipartisan support all along and it has got bipartisan support in the other body as well.

What we are trying to do is enable the people who have insurance coverage to avoid discrimination because their diseases are diseases of the brain rather than diseases of the body, sometimes known as mental illnesses. This is about discrimination. We end discrimination by mandate. There has been some resistance to ending discrimination by mandate. A mandate does not necessarily imply an additional cost. Anybody who thinks it does needs to go out to the phone booths, look in the Yellow Pages and look

under Actuary and you will find people who make their living adjusting insurance coverage. That is how they make their living and, if you want no additional cost, what I am doing here for people who have some concerns about the additional costs to business is I am allowing six more months before the phase-in begins. With that six months, any business can sit down with an actuary and say, "Okay, I want no additional costs but we have a law now that says we can't discriminate, find me a way." They will lower coverage in other areas and find you a way to have your insurance coverage to be equitable with no additional costs.

Over the past three years working on this legislation, since the first letter I got from someone, I have received numerous letters from Republicans and Democrats alike, many of whom own businesses and they are losing their shirts.

I have a letter here from a man who spent \$75,000 on his daughter's illness after her first \$25,000 lifetime cap was used up.

I have a letter here from somebody who works at Pineland with a Master's Degree. "If we don't pass some legislation giving these people some relief and coverage for their catastrophic illness, I have to tell this man that in order to keep his two kids in the Auburn Middle School System," he happens to be from Auburn, this letter is two weeks old, "he will have to divorce his wife in order to keep his kids in their home." That is what we have been fighting about and that is what we keep trying to explain to people. You are down to a choice now of keeping the assets that your family owns and has worked for by throwing somebody off that life raft of your family because the insurance coverage for these diseases is not adequate.

I hope that I will continue to have strong support in the House. I am hoping in the other body that we can come to some resolution that will give people an opportunity to protect themselves from the cost of a catastrophic illness when they go to work every day and work for a living and have insurance coverage already. These people have played by the rules, every last one of them.

Many of you say you are opposed to mandates but when mammography was here and it represented 50 percent of the population, you didn't dare to put yourself on a roll call against 50 percent of the population. Well, this is less than five percent of the population but the issue is still discrimination. These illnesses are more treatable than many illnesses that have gone through this House and been insured and, statistically, more treatable.

I hope that you will vote again to end discrimination against people with mental illness, support the amendment, support the legislation.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Cameron.

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

To Representative Dore, does this amendment do anything — I couldn't hear everything you were saying — does this amendment do anything to the amendment that was originally added for the \$1 million cap?

The SPEAKER PRO TEM: Representative Cameron of Rumford has posed a question through the Chair to Representative Dore of Auburn who may respond if she so desires.

The Chair recognizes that Representative.

Representative DORE: Mr. Speaker, Men and Women of the House: There is a Senate Amendment that was put on, not \$1 million cap, but a Senate Amendment that said, this will be capped at the level of all other insurance. So, if your other insurance coverage is at \$800,000 and you need to negotiate it down to \$800,000 in order to have no additional cost, this wouldn't be above that. We have never asked for a dime more than other health insurance coverage. It has never been about additional benefits, it has been about equal benefits.

I would like to remind you that in this amendment we take five years to phase it in. You would be voting for something that won't be fully phased in for another four years. The first year of that phase-in was the study.

I would also like to remind you that prior to the study, Blue Cross testified a year ago, two years ago, prior to the mandated Benefits Commission which recommended this prior to the study, they testified that it was going to cost \$18 per person a month. They also testified that about mammography; in both cases they were wrong.

You have to, at some point, figure out what it is worth to not discriminate. I would urge you to consider that this time their own study showed them to be wrong. The state still says the figures are less than their own study. Their own study took them down from \$18 to 90 cents a month. The state figures from the Office of Program and Fiscal Review, the figures that we have to live by, takes it even lower than that.

Subsequently, House Amendment "A" (H-660) to Committee Amendment "A" (H-582) was adopted.

Committee Amendment "A" (H-582) as amended by House Amendment "A" (H-660) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-582) as amended by House Amendment "A" (H-660) thereto in non-concurrence and sent up for concurrence.

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

An Act to Centralize Further the Permitting Process for Retail Businesses and to Allow Some Municipalities to Act as Central Permitting Agents (H.P. 399) (L.D. 512) (H. "A" H-408 to C. "A" H-367) TABLED - June 9, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield. PENDING - Passage to be Enacted. (Roll Call Requested)

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I just have to remind you that this is the bill that we have debated many, many times and I am going to be very brief. It is just to

remind you that this is the one that has been lobbied as one-stop shopping for licenses and permits and which is anything but.

I urge you to vote against the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Hوجلund.

Representative Hوجلund: Mr. Speaker, Men and Women of the House: I want to thank you and hope that you will vote yes on enactment and stay with what you did in the beginning.

The SPEAKER PRO TEM: 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. 198

YEA - Adams, Ahearne, Aliberti, Anderson, Bailey, R.; Barth, Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Cote, Cross, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heino, Hichborn, Hillock, Hوجلund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Joy, Kerr, Ketterer, Larrivee, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Michael, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendleton, Pfeiffer, Plowman, Pouliot, Rand, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simoneau, Skوجلund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Swazey, Tardy, Taylor, Thompson, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Tufts, Vigue, Walker, Whitcomb, Winn, Young, Zirnkilton.

NAY - Aikman, Ault, Birney, Daggett, Heeschen, Kneeland, Kontos, Marshall, Melendy, Pinette, Plourde, Poulin, Rowe, Sullivan, Wentworth.

ABSENT - Bailey, H.; Constantine, Dexter, Gwadosky, Kilkelly, Kutasi, Lemke, Martin, H.; Michaud, Pendexter, Pineau, Richardson, Saxl, The Speaker.

Yes, 122; No, 15; Absent, 14; Paired, 0; Excused, 0.

122 having voted in the affirmative and 15 in the negative with 14 being absent, L.D. 512 was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

(Off Record Remarks)

(At Ease)

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

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

SENATE PAPERS

Ought to Pass Pursuant to Joint Order (S.P. 527)

Report of the Committee on Banking and Insurance reporting "Ought to Pass" Pursuant to Joint Order (S.P. 527) on Bill "An Act to Collect Baseline Data to Facilitate Health Care Reform" (EMERGENCY) (S.P. 535) (L.D. 1561)

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.

By unanimous consent, was ordered sent forthwith to the Senate.

Non-Concurrent Matter

Bill "An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices" (S.P. 225) (L.D. 696) which was passed to be engrossed as amended by Committee Amendment "A" (S-168) as amended by House Amendment "A" (H-647) thereto in the House on June 9, 1993.

Came from the Senate with that Body having insisted on its former action whereby the Bill was passed to be enacted (C. "A" S-168) in non-concurrence.

On motion of Representative Paradis of Augusta, tabled pending further consideration and later today assigned.

(Recessed until 4:00 p.m.)

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

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

SENATE PAPERS

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 14, 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 Joint Order (H.P. 1161) relative to recalling Bill "An Act to Improve Local Control over Liquor Licensing" (H.P. 589) (L.D. 793) and accompanying papers from the Legislative files.

Sincerely,

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

Was read and ordered placed on file.

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**Non-Concurrent Matter**

Bill "An Act to Set Voluntary Limits for Campaign Spending" (H.P. 1149) (L.D. 1549) which was passed to be engrossed in the House on June 4, 1993.

Came from the Senate passed to be engrossed as amended by Senate Amendment "D" (S-329) and Senate Amendment "E" (S-332) in non-concurrence.

On motion of Representative Paradis of Augusta, tabled pending further consideration and later today assigned.

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

**SENATE PAPERS**

**Non-Concurrent Matter**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Transfer the Responsibility for Recounts of Elections to the Judicial Branch (S.P. 475) (L.D. 1474) which was passed to be engrossed as amended by Committee Amendment "A" (S-208) and House Amendment "A" (H-594) in the House on June 4, 1993.

Came from the Senate with that body having adhered to its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-208) in non-concurrence.

On motion of Representative Paradis of Augusta, tabled pending further consideration and later today assigned.

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**Non-Concurrent Matter**

Bill "An Act to Allow Political Parties to Determine the Method of Nominating Candidates" (H.P. 1064) (L.D. 1432) which was passed to be engrossed as amended by Committee Amendment "A" (H-585) in the House on June 4, 1993.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

On motion of Representative Michael of Auburn, the House voted to Insist.

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

**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 14, 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 of the two branches of the Legislature on Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY) (H.P. 1159) (L.D. 1558).

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

Senator BERUBE of Androscoggin  
Senator BUTLAND of Cumberland  
Senator BUSTIN of Kennebec

Sincerely,

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

Was read and ordered placed on file.

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Reference is made to (H.P. 1159) (L.D. 1558) Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY)

In reference to the action of the House on June 14, 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 JOSEPH of Waterville  
Representative KERR of Old Orchard Beach  
Representative MURPHY of Berwick

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**PASSED TO BE ENACTED**

**Emergency Measure**

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) (H. "A" H-655 to C. "A" H-310)

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 21 against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

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**PASSED TO BE ENACTED**

An Act to Authorize Sagadahoc County to Provide Centralized Administrative Services to Those Sagadahoc County Municipalities That Desire to Share the Cost of Those Services (H.P. 978) (L.D. 1309) (H. "B" H-659 to H. "A" H-625)

An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes (H.P. 1060) (L.D. 1428) (H. "B" H-661)

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

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

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(At Ease)

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The House was called to order by the Speaker.

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The Chair laid before the House the following matter: Report of the Committee on **Legal Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-276) on Bill "An Act to Implement the Recommendations of the Special Commission on Electoral Practices" (S.P. 478) (L.D. 1477); came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-276) as amended by Senate Amendments "C" (S-296), "E" (S-323) and "F" (S-325) thereto which was tabled earlier in the day and later today assigned pending further consideration.

Subsequently, the Committee Report was accepted, the Bill read once.

Committee Amendment "A" (S-276) as amended by Senate Amendments "C" (S-296); "F" (S-323); and "F" (S-325) was read by the Clerk.

Senate Amendment "C" (S-296) to Committee Amendment "A" (S-276) was read by the Clerk.

On motion of Representative Paradis of Augusta, Senate Amendment "C" (S-296) to Committee Amendment "A" (S-276) was indefinitely postponed.

Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276) was read by the Clerk.

On motion of Representative Bennett of Norway, Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276) was indefinitely postponed.

Senate Amendment "F" (S-325) to Committee Amendment "A" (S-276) was read by the Clerk and adopted.

Representative Cathcart of Orono offered House Amendment "G" (H-663) to Committee Amendment "A" (S-276) and moved its adoption.

House Amendment "G" (H-663) to Committee Amendment "A" (S-276) was read by the Clerk.

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

Representative CATHCART: Mr. Speaker, Men and Women of the House: Just briefly, what House Amendment "G" does is change the language in the bill in order to allow a college student, young adults, such as my own two children, to be able to vote either in the place where they temporarily reside and are going to college or they can choose to vote back in their own hometown, which I think is better to give them that choice. I know in our situation my children who went to college out-of-state both preferred to vote back home because they thought they knew the local issues and the local people better.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: This piece of legislation, 1477, most everybody knows by this time came out of a special commission that Bill Diamond put together.

There were probably 30 some different pieces or suggestions from four or five different meetings around the state and the only thing we put into the commission was a unanimous vote and then, of course, it went to the Legal Affairs Committee and came out as L.D. 1477. One of the things that we heard around the state by a lot of the Clerks was the intent to return at a later date in life and they couldn't clean up their voting records. I recommend that we vote against this amendment and try to keep a nice clean bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Men and Women of the House: I would ask you to vote against House Amendment "G" and my argument is that it will not do — or the way the committee reported the bill, it will not infringe upon someone who is going away to college from having them vote in their own hometown.

One of the reasons that the committee chose to include and keep this particular piece in the bill was to allow the municipal clerks the ability to clean up the voting lists. We had one clerk tell us that the phrase "intent to return" was causing such a difficulty in making sure that the voting lists were up-to-date. One example given was they tried to cleanse the voting list and the Clerk kept calling this person and saying, well, are you coming back to the municipality? The person said, "Oh yes, we are coming back, my wife and I have a cemetery plot." Granted, that is a radical example but what we are doing here is we are saying that if someone does not live in the municipality, does not have any connection with the municipality, then they should not be voting in the municipality.

College students, however, can choose to remain residents of the municipality or they may choose to become residents of the town in which their college or university is located. My own example, going to school in the southern part of the state, there were many people from out-of-state who chose to make Brunswick their residence because they could then register their car in Maine and insure their car in Maine for a lower insurance.

Now, if they are going to take advantage of having residency in our state, they are going to choose to vote in our state as well, are we going to make provisions where you can have your cake and eat it too? Are we going to say that you can register in another town for the perks but you can keep the perks of voting in another place?

I think you choose where you are going to establish your residency, if a college student wishes to keep that in their home town, that is perfectly fine. I think by passing this amendment, we are going to go back to the system which made it miserable for the clerks to keep updated voting records which are useful to all members of the public.

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

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

My question would be, if a college student (for other purposes) must continue to claim their place of residence with their parents in their hometown, in this bill then they could not register to vote as students in the City of Waterville, the home of Thomas and Colby Colleges — am I correct that this bill prohibits that?

The SPEAKER PRO TEM: Representative Joseph of Waterville has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: No, they still could sign up to vote in one community or the other. The main concern with people intending to return, who move from one area to another for 12 to 15 years and then stay on the list, when they try to take their names off, they just say we do intend to return. Really it does not involve the college students when they are trying to vote in their place of residency or where they are going to school.

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

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

To a member of the Legal Affairs Committee, is there any protection for citizens of the state who are serving in the military or who are working outside of the United States, is there any protection offered by the bill so they won't have their right to vote taken away by the Clerk?

The SPEAKER PRO TEM: 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 Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: Yes, they were protected.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I guess I have always had a

little bit of a problem with college students voting in an area or a town where they don't know, particularly those from out-of-state or from places far removed within the state, that they don't know the local candidates.

I would like to pose a question to anyone who would care to answer it.

It would seem to me if I were from New Jersey going to the University of Maine at Farmington and could vote there, I would then be a resident there and that I ought to be paying in-state tuition.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: That is one way to establish your residency, you have to go through several other hoops, Representative Barth. You have to go through your driver's license, where you vote, amount of time spent in residency has to be beyond the school year so there are more things than just where you vote but this is a method where someone could establish residency.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: Traditionally, the eighteen to twenty-five year olds voting contingent has been the least energetic and most apathetic group of voters in our country. This past election I think we saw a turnaround in that group and saw the effects thereof.

It is important that people are able to vote easily. Voting is a right, not a privilege, and by making it harder for people to register to vote, harder therefore to vote wherever they may be living for a year or two years or five years as was the case in my college experience, it disenfranchises those voters and makes it harder. Not everyone has the energy to send away to Jersey, if you will, or Farmington from Orono or Brewer from Bangor for an absentee ballot. If someone is living and studying and waking up to their political consciousness while in college, I think that we owe it to them to make it easy as possible to exercise their right to vote.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I move indefinite postponement of House Amendment "G."

Why I do this is because I think most people who are in college are adults, most people who are in college are capable of making very good decisions. As a matter of fact, they have made at least one big choice and that is which school to attend. I think they are perfectly capable of filling out an absentee ballot if they wish or choosing to vote in a town where they are now going to school.

I think this, as we have seen in a lot of the recounts, and we had many elections recently where we had problems and the Clerk's weren't sure where somebody should vote, where somebody shouldn't have voted. If you go back through the records of the Elections Commission, we probably could have saved a lot of time had this provision been in law today.

I hope you will vote to keep the bill whole as Representative Stevens said and indefinitely postpone House Amendment "G."

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: I encourage you to vote for indefinite postponement of this amendment. It brings me back to when I was in college, those who were interested in voting certainly had opportunities for absentee ballots.

Also, for nearly a decade when I served in the military, most of those people that I served with were college age students. In the environment that they were in, it was certainly a lot less hospitable than a college campus. I believe that 75 percent of the young Marine's that I was with voted and voted absentee because they wanted to and they knew what the freedom meant.

So, we are not asking much — yes, it is a right but it is a right that was earned by many others and it is a privilege also and they should value it as such and show some effort.

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

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

To Representative Stevens, I was looking through the Bill and the only thing I can find that would protect the rights of a person who was in the military or a person who worked outside of the country was in Section 9 of the bill of the amendment where it says "The residence of a person is the place in which the person's habitation is fixed, a person may have a non-traditional residence including one but not limited to a shelter, park or underpass." It seems to me that that does not protect the rights of a person who leaves the country to work, who is in service of the military if they don't own a residence in their hometown. So, my question is, how does it protect the rights of those people serving in the military or who are living and working outside the United States?

The SPEAKER PRO TEM: Representative Mitchell of Freeport has posed a question through the Chair to Representative Stevens of Sabattus who may respond if he so desires.

The Chair recognizes that Representative.

Representative STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: I think by federal law you will find that they are protected.

Also, this amendment just intends to return, it does not say they cannot vote at their college, it just puts them on one voting list or the other.

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

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

Can you please clarify how the language protects the right of a person who is in the military to vote in their community if they don't own a habitation there? The habitation is the place where you spend the night — how are you guaranteed that right and what happens if you live in Maine, you have grown up here and you leave the United States to take a job for two or three years and you don't have a habitation in Maine, can you lose your right to vote in this country and be disenfranchised?

I haven't heard the question answered yet.

The SPEAKER PRO TEM: Representative Mitchell of Freeport has posed a question through the Chair to Representative Stevens of Sabattus who may respond if he so desires.

The Chair recognizes that Representative.

Representative STEVENS: Mr. Speaker, Ladies and

Gentlemen of the House: I don't believe I could answer that question other than, under federal law, you cannot take away their right to vote. This only gives them an option to list one or the other, either the town where they are from or the place where they work even if it is out of the country.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of Representative Donnelly of Presque Isle that House Amendment "G" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Cathcart of Orono requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of Representative Donnelly of Presque Isle that House Amendment "G" be indefinitely postpone. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 199

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bowers, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Clukey, Coffman, Cross, Daggett, Dexter, DiPietro, Donnelly, Farnum, Farren, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Hale, Heino, Hichborn, Hillock, Hussey, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, H.; Melendy, Michael, Nash, Nickerson, Norton, O'Gara, Ott, Pendexter, Pendleton, Plourde, Plowman, Poulin, Pouliot, Reed, G.; Ricker, Robichaud, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Tardy, Taylor, Thompson, Tracy, True, Tufts, Vigue, Whitcomb, Young, Zirkilton.

NAY - Adams, Ahearne, Brennan, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coles, Constantine, Cote, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gwadosky, Hatch, Heeschen, Hogleund, Holt, Jacques, Johnson, Joseph, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Mitchell, E.; Mitchell, J.; Nadeau, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Rand, Reed, W.; Richardson, Rotondi, Rowe, Ruhlin, Saint Onge, Simonds, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Treat, Walker, Wentworth, Winn.

ABSENT - Aliberti, Beam, Dore, Dutremble, L.; Jalbert, Kerr, Michaud, Morrison, Murphy, Rydell, Saxl, The Speaker.

Yes, 80; No, 59; Absent, 12; Paired, 0; Excused, 0.

80 having voted in the affirmative and 59 in the negative with 12 being absent, the motion to indefinitely postpone did prevail.

Representative Cashman of Old Town offered House Amendment "D" (H-644) to Committee Amendment "A" (S-276) and moved its adoption.

House Amendment "D" (H-644) to Committee

Amendment "A" (S-276) was read by the Clerk.

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment would eliminate the limitation on third persons requesting absentee ballots. Hopefully eliminating the language, which I feel will inhibit the ability of elderly and physically unable people to vote at the polls. I hope you will support this amendment.

Subsequently, House Amendment "D" (H-644) to Committee Amendment "A" (S-276) was adopted.

Representative Larrivee of Gorham offered House Amendment "E" (H-656) to Committee Amendment "A" (S-276) and moved its adoption.

House Amendment "E" (H-656) to Committee Amendment "A" (S-276) was read by the Clerk and adopted.

Representative Daggett of Augusta offered House Amendment "B" (H-599) to Committee Amendment "A" (S-276) and moved its adoption.

House Amendment "B" (H-599) to Committee Amendment "A" (S-276) was read by the Clerk.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: This amendment allows candidates the option of being at the polling place.

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

Representative HILLOCK: Mr. Speaker, I move indefinite postponement of House Amendment "B."

Ladies and Gentlemen of the House: This amendment would allow candidates to be at the polling place and certainly they should be allowed to go there and vote. From what we have been through in the last six months, one would have to appreciate the sanctity of the polling place and not allow any influence by the presence of a candidate there and clearly they are there for one reason.

We have had instances where cellular telephones are hooked up, there is coercion in the lines or at least alleged coercion by candidates in the line.

This year especially in our election there was an overtaxing of the polling places. There were big crowds that developed and there were allocations of improprieties by candidates. This would eliminate that, we have got to clean up the voting process and I think this would go a long way towards that and plus get some respectability back to being a civic leader, a person who runs for office and just get some sanctity back into the polling place.

I would hope you would follow my light for indefinite postponement of this amendment.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: The reason I have offered this amendment is because I think that candidates have every right to be at the polling place. There were allegations by the Commission on Electoral Practices that candidates are intimidating. I would suggest that if candidates are intimidating in the voting place, then they must be extremely intimidating when they are meeting you one-on-one at your home and not in public. I think that disallowing candidates from the polling place sends absolutely the wrong message, that somehow we are not fit to be in public, particularly on a day of voting which is the very essence of democracy. I think it is a sad day that

we would consider ourselves so intimidating that we can't even be around the polls.

I would certainly not deny that it is difficult sometimes for friends and neighbors to see a person that they perhaps know they are not going to vote for and that may be a sense of guilt that they are feeling inside and would prefer not to look at a candidate.

Currently, today, there is no campaigning of any kind allowed at the polling place. Voters are not to be harassed by candidates, by petitioners, or by anyone else. Our wardens at the polls have broad authority to make sure that that does not happen. If any voters are being intimidated at any time by anyone, then the warden should see that that does not continue. There is a mechanism in place today to take care of that. I hope you will join me in supporting this amendment.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I think the first thing we have got to keep in mind here is, why are we trying to react to a problem that never was a problem? Yes, we had a few unfortunate circumstances that transpired in this last election, however, those irregularities were an error of judgment which had absolutely nothing to do with any individual candidate. So, why are we telling candidates that they must not even be at the polling place and why are we implying to the electorate of the State of Maine that this is in fact a problem when in fact it is not? That is the first thing.

Now, it seems to me that the public at large, the voters at large have somehow a fundamental right to at least meet the person for whom they are either planning to vote for or against, other than just a regular candidate's presence at the polls — "Hi, how are you, nice to see you again, thanks for coming in" — what is wrong with the presence of a candidate or the opponent? That kind of practice has been going on for years. There is no substantiated problem with that procedure and I would simply ask, why are we trying to correct something that is in fact not a problem?

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: It is not often that I stand up and speak different than a fellow member of the Augusta delegation. However, on this particular issue, I would ask that you support the motion.

I also would like to share with you why I believe the commission that was set up by the Secretary of State's Office should be supported. There were cases before the Election Commission and we have had circumstances where the law is clear that it is a violation to attempt to influence a vote by a candidate at the poll. The question is, what is influence a vote?

The good Representative has said, why shouldn't I be at the polls to say "hello" to people? That perhaps is fine but then what happens when the candidate next says to people, "Do you need any help in completing your ballot? Do you need an absentee ballot? Do you need a ride? Your sister is not here, does she need a ride?" Then we are dealing with telephones at the polls where people are calling up saying, "So and so is not here, but their husband needs a ride." I think that we are dealing with a

different technology, perhaps a different attitude and that we ought to follow the recommendations of the commission that is saying, let's limit what the candidates are going to do at the polls and let's limit the campaigning and let's limit the buttons.

I think that what we are doing here is stopping a problem before it becomes a more serious problem. I would urge you to support the motion to defeat the amendment and go along with the recommendation of the commission which the committee has in effect adopted in the bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Just using my own local community as an example and to show you how ridiculous it can be when we decide in order to correct one serious problem, we begin to address all kinds of other problems as though they were as serious. In the City of Westbrook, the election officials are all elected, the Warden, the Clerk and the Constable are all elected officials. What do we do about those three? The City Clerk in Westbrook, who happens to be of the other political party and a very good friend of ours and he has been our City Clerk for 28 years, is elected every two years. What does he do with his job, assign it to somebody else?

Ladies and gentlemen, the amendment that allows candidates to move in and out — I would like to answer the gentleman's from Saco's comments, one of his questions, what is so wrong with having a candidate at the polls? The answer is what he already knows, nothing is wrong with it.

If you have a candidate sitting there, standing there for two and a half hours glad-handing and shaking hands with everybody, that is one thing, but if he is bringing people in and out of the polls as we all do in Westbrook, giving people rides to the polls, if he or she is going in and spending a little time talking to the outside checker to see who is voting and who isn't voting, if he or she is doing what I do and everybody else in Westbrook does and is allowed to do, to talk with the Clerk, talk with the Warden, "How is it going, anything we can do or that kind of thing" that is not campaigning, that is what it is about in the City of Westbrook, that is what the election process is about in a strong political partisan city as we have in Westbrook. We don't need this item, we don't need it at all.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I would like to address the concern that is being presented by the good Representative from Westbrook, as well as the Representative from Saco, in regard to this item.

I am going to quote from the so-called Diamond Commission to review the governmental elections process because they have discussed with us their concern that this is not a wide scale concern in terms of influence of candidates at the polls. To quote under recommendation #18, which is the embodiment of this item in the law prohibiting candidates at the polls, under comment, "During public hearings, the Commission repeatedly heard concerns expressed about the intimidating effect on voters of candidates at the polls." This is directly from the Diamond Commission.

As was known by some, I had some concerns about the Commission when it was formulated and concerns

about where the Commission might go. They made a concerted effort to get widespread public input into this law and this is one of their results.

To be very frank with you, I had a good deal of concern about this particular aspect of the law as one who enjoys going around to the polls meeting people, meeting and talking with Clerk's and so forth, but it seems to me we have to take the extra step to restore credibility to the process and this is one of the recommendations out of that Commission to do that.

I think it is an important recommendation, I think it is one that perhaps will allow people to gain the confidence that they need in the process. Therefore, I urge support of the motion to indefinitely postpone.

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

Representative ERWIN: Mr. Speaker, I would like to pose a question to Representative Whitcomb.

Representative Whitcomb, how would you respond to the concerns of Representative O'Gara, and I also have the same concern, when we have an elected Town Clerk or City Clerk who is there during election time and is also on the ballot? And, how would you address the concern with regard to the warden who is a selectman who is also on the ballot?

The SPEAKER PRO TEM: Representative Erwin of Rumford has posed a question through the Chair to Representative Whitcomb of Waldo who may respond if he so desires.

The Chair recognizes that Representative.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: In the sense the question was personally directed as neither a member of the committee or the Commission, I will respond that I am not familiar with how it impacts the Clerks or the Wardens if they are on the ballot. If that is a concern, perhaps someone who served on the committee can address that. So, if you ask me for my response, the answer is, I don't have a response to that part of it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I am afraid in my desire to get up and respond quickly earlier that I didn't make it very clear, that those people that I mentioned were elected in the City of Westbrook are on the ballot every time. Also, I didn't make it very clear that I urge you to defeat the motion to indefinitely postpone this particular item.

I had another point that I wanted to respond to but I have forgotten it now.

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

Representative COLES: Mr. Speaker, Men and Women of the House: I guess I have that kind of a question too. In Harpswell, we elect all of our local officials during the town meeting at the same place the town meeting is held. That includes the Town Clerk, the Town Tax Collector, the Town Treasurer, the selectmen, the school board and the planning board in our case. If I understand this bill correctly, it means that none of those people would be able to attend town meetings when in fact it is their job to run town meetings and their job is to speak on many issues before the town meeting.

I don't see how in fact you could possibly operate small towns the way they are operated now,

you would have to separate completely the elections from all other activities. And, every time one of the elected officials whose job it is to run an election is on the ballot, you would have to somehow find a substitute to run that election. This is just a really odd proposition especially as the Representative from Saco said, no one has demonstrated that there has been any serious problem here.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: I, too, agree with Representative Coles. On most of the Special Commission's recommendations, I think many of them I agree with. This one I particularly do not and for the one reason that I wanted to point out that has not been pointed out yet today and that is that, when you are at the poll and you have an opponent in an election, you might be at that poll from the opening of the polls to the closing. This is one of the — there are several opportunities — but this is one of the opportunities where you have a chance to outwork your opponent. I know in many cases you are out there working for votes. I have seen elections possibly influenced, not unduly influenced, just influenced by the work that you are doing at the polls, meeting people, that is all part of it.

While I agree with many of the recommendations, I do not agree with this particular one. I hope that you will join me in supporting this motion to indefinitely postpone this amendment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to follow up on Representative Libby's and Representative Coles's comments, especially on town meetings. The first thing that transpires before the town meeting is they have to elect a moderator who does run the town meeting. It is not the selectmen that run the annual town meeting or anything like that, it is the moderator. So, if I am hearing this correctly, the moderator wouldn't even be able to be down to the town hall or be around because he is presumed to be an elected official.

I would urge you to not to vote for the indefinite postponement of Representative Daggett's amendment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: Going back to the question, what is the procedure as far as if somebody is on the ballot and they are ordinarily a person who is working at the polls — I will go back to my own experience. When I first ran as County Commissioner, I was Town Clerk at that time. I did not have the right to handle any ballots for that particular election. I mean that the Deputy Clerk had them in her possession, the absentees and everything connected with that election and I had absolutely no right to have anything to do with it. This was back in 1972. I am not sure that it has not been changed but I am not aware of any change of that kind. I believe that is the proper safeguard to assure that anyone who is a candidate will have no right to be handling any of the election papers or be presiding in any way at the polling place during that time.

Representative O'Gara of Westbrook was granted

permission to address the House a third time.

Representative O'GARA: Mr. Speaker, Men and Women of the House: I apologize for forgetting what I wanted to say before. We were talking about intimidation, that somehow candidates are intimidating at the polls, I would submit to you that people who are far more intimidating are those who are taking names for a petition. For instance, I was observing, as I am sure many of you did, those who were soliciting names for term limits. If there is anybody I have observed in my last 25 years of politics that were more intimidating were those people who were sitting there and actually daring people practically not to leave the polling booth before they voted to support term limits.

Getting to Representative Look's comments, — first of all, I would see it a little different because you were running for a different position, but we are talking about veteran, experienced, election officials here, the warden, the Clerk and the constable are veteran, experienced election officials which we certainly need in my judgment in order to make sure elections go well. We can't just tell them on that election day that they have got to get substitutes. There is no substitute for that kind of experience. The Clerk, himself or herself, himself in our community, is a veteran, probably the longest standing Clerk in the State of Maine, 28 years working on his 30th year as Clerk of the City of Westbrook. You can't replace that kind of experience, you just can't say to him, you will not be around the five voting precincts that we have. He just can't be replaced.

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

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: I believe it is a healthy part of American politics that we are able to see candidates on election day. I think it would be a mistake for us, if based on the abuse of that privilege, we were to bar all candidates from the election place. I think there is another solution to that and that is better enforcement of the electioneering provisions. I would ask that you vote against the indefinite postponement of House Amendment "B."

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

Representative STROUT: Mr. Speaker, Men and Women of the House: You know I am a Town Clerk and I also run for the legislature. I think you are confusing some things here because, if you want me to be there as Town Clerk when I am running for the legislature, fine, I have no problem with that. But, from what I understand, I have been told and I have been Town Clerk since 1979, I cannot be there the day the vote is being taken. If I am on the ballot, I can't be there to influence any voters.

As far as moderator is concerned, under the Australian ballot process, what that moderator does is go in before the booths are open and that moderator is elected by a group of people and then they go back at a later time and run that election.

I don't have any problem with those officials that are running for office being in and out of those facilities, influence votes, but let's not say that we are giving Town Clerks the right to be present when the votes are being cast. If you really want to do that, I really would love that.

The SPEAKER PRO TEM: The Chair recognizes the



Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, My Learned Colleagues (As Representative Lord likes to say): I never thought that I would live to see the day that we would go down the path of becoming second-class citizens because we choose to run for public office.

It just amazes me that we go out and admit to the people that we can't be trusted, that we violate current state law and we do it on a pretty regular basis so we have to pass a bill like this to deal with that.

I want to tell you what happens in the City of Waterville, the City of Waterville is much like Westbrook because the City of Westbrook did use Waterville's original Charter when they adopted their Charter way back. In the City of Waterville, if a candidate is in there and you do anything, shake hands, smile, talk about voting for you or anything else, do you know what happens to you? You are gently, kindly and directly escorted out of the polling place with no exception to anyone.

I have been visiting the polling places (and I have four in my district, Representative Joseph and I share a couple as our districts overlap) even before I ran for the legislature just because there was always something there that you could do. I would go get an absentee ballot because neither party, if it was an independent or somebody that was way out on the outskirts of town and they weren't sure which way these people were going to vote, they let them hang there until somebody came along who just wanted to help out and went and got the absentee ballot. So, I used to do that.

One of the things I do now is, when it's time for the poll workers to eat, they are allowed a big allowance of three or four dollars, they call in their order of food, I jump in my truck, I go pick it up, I bring it back and drop it off. They say, "Thank you very much" and I am on my way. I kind of think that that is a nice thing to do.

On many occasions, I have asked, have I ever in my visits to the polls done anything that you think would intimidate or attempt to intimidate or violate the current law now which says you cannot ask for people's support in the polling place (and without exception) and by both members of both parties who are there have been told, you have never done anything that is out of the question or in question with the law. I don't even wear a button. I say "Hi, how are you doing? How is the new baby?" or whatever the case may be. I don't even talk about the fact that I am on the ballot. If they don't know that, I am in trouble to start off with. If they don't know who I am, I am in bigger trouble to start off with. And, if they don't want to vote for me, they probably won't when they get in that booth because of the curtain. I don't know how I could intimidate them because I am not going to know. If they are not going to vote for me, then that's no problem either because I am not going to win and I won't be a candidate next time (or I may) but I won't be an incumbent next time.

It just seems that we have the opportunity to, yes, do things that will help the electoral process in this state based on some real and legitimate problems that have cropped up. Unfortunately, I don't think this is one of them. It doesn't work in Waterville. If it works in your community, I suggest you get people there who will do their job and

enforce the law because what you are talking about doing is already illegal.

I really resent the fact that I now am delegated to the rank of a second-class citizen because I chose to run for public office. That is my polling place in my community. I have been visiting it for 20 years or since I turned 18 and the legal age to vote in my community where I was born and lived all my life up until now and I don't think that it is right that you can tell me that I can't go there except to vote and then I have to leave like a common scuzzbag criminal because I am going to do something against the law. If that doesn't bother you, then you can deal with that, but it sure bothers me because I have always upheld the election laws in my eight times that I ran for legislature and intend to continue to do so. I have never violated them and I don't believe we should be passing a law to deal with the bogeyman. Let's deal with the real problems, not the bogeyman.

I would urge you to vote against the indefinite postponement of this amendment because it is an amendment that is needed because we are chasing the bogeyman.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: I can appreciate Representative Jacques and the rights that he may feel are being pinged upon by precluding him from visiting the polling place. I think maybe you have to make some sacrifices as a political candidate to put you on the high road. It has been my experience in running polling places as a warden or as a moderator for probably 20 years that there is a sense of intimidation by candidates' presence at the polling place.

I will go further than Representative Lipman says or Representative O'Gara that when they say, what is wrong with the candidate being there? Nothing, but their concern was what happens at that polling place if the candidate goes further and has some kind of direct influence.

I would suggest to you that the mere presence alone is enough to provide that slight intimidation that may affect the voter's choice. I think if we truly want to make the polling place free, belong to the electors, reforms, then we have to leave it to the people who are going to vote.

Candidates have an opportunity from the day they declare their candidacy to the night before the election to do all the campaigning they want to, leave election day for the people who make the electors.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would just like to make an observation for you here. I have been on a different committee each time that this issue has been discussed and it has always been a fairly hotly discussed item.

I will tell you the people who oppose candidates being at the polls are almost exclusively those people who do not wish to be at the polls. I would suggest for those people who don't wish to be there, don't go. But, for those of us who enjoy being at the polls and look at our positions as one of service, and that is how I look at my job, and provide a service on election day, please don't



prevent us from providing that service. I don't believe that I have ever intimidated anyone at the polls and in fact I frequently get called on Primary Day to give people rides. It is not easy to get people geared up for giving rides on Primary Day but I generally make the entire day available and have even had people from the opposing party contact me because they know that I am available to give rides. I don't think that anyone's election rests on that one day and their behavior but for those of us, such as Representative Jacques and myself, who view it as another opportunity for service and don't wish to send a message that there is something wrong with being a political candidate, I urge you to defeat the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: The Commission was made up of three City Clerks, Jane Durgin of Portland, Gerry Berube of Lewiston and Russell McKenna of Bangor, State Senator, Richard Carey and myself, Albert Stevens from the House, Kay Lebowitz, retired State Representative, Marion Holzerstart, President of the Maine Chapter of Women Voters, Lorraine Fleury of the Election Office, Robert Cleaves who is the Republican Party Counsel, David Perkins who is a Democratic Counsel and it was a unanimous vote of the committee of the Commission to the Legal Affairs and, God forbid, if we should have to do something that the people want.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I apologize for getting up twice but with all due respect to all the people that were on that Commission, my vote against this proposal or in favor of this amendment, has nothing that would reflect the integrity of the people that were on that Commission. We do have a right still, I guess up until now, to disagree in this country and disagreeing is what I am going to do.

I would also like to point out, with all due respect to Representative Ott, that I believe I have always taken the high road in my elections and, if that wasn't the case, I would not have been reelected eight times, the high road without anybody looking over my shoulder.

The final point I want to make is that I have never been intimidated myself at the polls. One time I did miss election day through circumstances that were not my own and I have got to tell you, when I came back into town a couple of days later, people did not say to me, I am glad you weren't there because you didn't intimidate me to vote for you, they wanted to know where I was, how come I wasn't there, we expected to see you and you weren't there. I didn't hear that just once or twice, I heard it a lot which made me feel pretty good because they did consider that part of public service of being around.

I have got to tell you, I have taken care of quite a few my constituents' concerns in the hallway at those polling places because, unfortunately, even in the City of Waterville, it is the only time I am able to see some of these people — either at weddings, funerals or election day.

We have closed our dump which used to be the major meeting place to take care of constituent concerns, that has gone now as there is a transfer

station so we can't stay there very long, so election day gives me a chance to do that.

There was a point that was made here, if you are really so concerned about intimidating, let's just require that every candidate on the ballot has to vote by absentee so you won't be there at all, you won't even show your face at the polls, no one will be intimidated and then the democratic process can work real well, you won't even be there.

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

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

To anyone who may want to answer, I have been listening to this whole debate and it has been saying that the candidate can't be there at the place of election — does this prohibit my wife from being there or a friend taking my place?

The SPEAKER PRO TEM: Representative Pouliot of Lewiston has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: The bill in front of you would not prohibit a candidate's spouse or family but I will tell you that that was a part of the discussion and there is some sentiment to prevent that as well but currently it is just the candidate.

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

Representative POULIOT: Mr. Speaker, Men and Women of the House: Then I would feel that if we are trying to stop intimidation, I think there could be a more serious problem if I just sent a friend there and if he loses his head, then you have a problem.

I would concur with Representative Jacques, if I am standing there it is my honor that is on the line. It is a process I find to be very sacred to me and to every member in this chamber. To think that a member is going to stand there and try to intimidate someone — for what, to ruin the process that we are trying to be elected for? I think this is a hidden excuse.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker and Members of the House: While we are at it, I would suggest that we amend this bill again and prohibit political Representatives and Senators and anybody else in the political forum from attending their annual town meetings.

Last March, I happened to be a little late for my annual town meeting in Belgrade and, lo and behold, the moderator and the people of that town know that I am always there and the moderator happened to introduce Representative Tracy from Rome and Representative Tracy was not present at the time. I did make it in about an hour and a half later and finally got introduced.

I thought this was an interesting debate to say that they don't want us at the polling place during elections because it makes me feel what we are doing here is — you may not feel like it but you are putting me into a position that you are trying to make me feel like a scumbag and I am not a scumbag. I take a high respect for this office because if I didn't I wouldn't be here and I wouldn't put the time that I do into this job and attend all these town meetings and public forums for my people. I would

suggest to you, like I said before, I would go along with the Representative from Augusta, Representative Daggett, it is about time we moved on here.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: I rise again just to put on the Record the fact that I meant no criticism of Representative Jacques or anyone else in this House who felt they may have been criticized because of their activity at the polling place.

The point I was trying to make is that whether or not somebody is intimidated I think is a very subjective thing. I don't think that we as candidates can tell how somebody might react. I have known people who walk down the street and who may cross that street just because they don't want to confront another person that is walking in the opposite direction towards them or they may do something else to avoid some kind of contact with somebody.

What I am trying to say is the voting place should be private, it should be a place for the voters to vote and I think that the mere presence can have a very subtle influence, a very subtle form of intimidation on the voter and that was the point I was trying to make.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I agree that the voting place is sacred. I believe that it is a place where people should go to vote their conscience without threat. I think that is exactly why we have a ballot booth where people go to cast their ballot in secret.

I do not believe that that extends beyond the limits of the ballot booth itself. Constantly, you will see more than the candidates. The only complaint I have heard about at the polling place has been the number of petitioners there seeking to gather signatures for this or that or the other thing and that is what is intimidating. If you want to talk about intimidation, talk about all those people that are there at their tables sitting there asking you to come over and sign something — if you can't even sign a petition, what kind of ogre are you? That is the real intimidation, it is not the candidates.

I think where the line is is the important issue. Representative Ott raised that issue and I think that line is at the entrance to the voting booth, not the entrance to the voting place. I think people are smarter than we give them credit for. They know when we cross the line from a friendly presence to intimidation. I think that those people, once they cross that line into the voting booth, will take it out on us if they think we have been intimidating with our presence at the polls. I have never, as I said, heard a complaint from the people in my area about me or any other candidate appearing at the polls.

With all due respect to the Commission, which did accept this unanimously, they were not elected by the people to make these decisions, we were, and when we got into this debate over this bill in the Legal Affairs Committee, we did agree to use the Commission's report as the basis for our work. That is why L.D. 1477 is before us today so we can have these debates. That did not mean to me that I was going to accept the Commission's report and I don't

think any other member of this legislature, neither this House or the other body, would think that we would advocate our decision making authority to a Commission that the Secretary of State elected by the majority party in this legislature appointed on his own authority.

The Legal Affairs Committee came up with this unanimous Committee Report and the majority of the committee accepted the prohibition of candidates at the polls despite the reservations of some of us on both sides of the aisle. I felt then and I feel now that it is entirely appropriate for this amendment to come before this body for the legislature to decide this important issue.

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: I will be brief. The debate has been thorough here but I just wanted to mention that we were focusing on intimidation. My concern is both intimidation and coercion. Where is the level playing field if an incumbent is allowed to do constituent work at the polls? How can a challenger meet that? I just want you to think about that. Clearly, we all like to do constituent work or we wouldn't be here, but I think it is inappropriate to discuss constituent work or even do it at the polls, that is why I am moving for indefinite postponement.

Representative Tracy of Rome requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: I feel like I have been discriminated against because I don't have a spouse to send to misrepresent me at the polls.

If on Election Day in my district there was an hour and a half wait at the polls to vote, while everyone was waiting, we played frisbee, we read the newspapers, we shook hands, but more importantly, we brought lemonade to the women who were poll watching, we gave rides to hundreds and hundreds of people, college students and non-college students alike. It would be too bad if we had to drop these people 250 feet from the polls or we couldn't walk them in and say this is the line, here you go, thanks, have a great day.

It would seem to me that if someone were at the polls and bumped into a candidate and told the candidate, my sister is in a wheelchair, she needs a lift, how about going and get her? And that woman got a ride to the polls and could therefore vote, that would seem to me to be a good thing, not a bad thing.

I don't think that we need to punish the electorate or ourselves as legislators because of the original impetus of this bill. We need not either enter the practice of insulting the electorate by calling them stupid or that they are subject to great intimidation by a handshake or a smile or a lift to the polls.

I think that you should vote against the indefinite postponement.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I don't think there are many words that haven't been spoken yet on this subject but it seems to me that those who expressed concern about this particular aspect of the Commission Report and the legislation in front of us are describing in some instances model cities or towns where there is not a problem with the law. As one who had some responsibility in the last session to watch over elections in many parts of the state, there is a very uneven application of influence at the polls, very uneven. Members of this body who are here now, fine and well that everybody conducts themselves in what they view in their own mind as a responsible manner, but there are polling places where every single individual who passes through shakes the hand of a candidate or candidates. There are places in this state where there are various activities to single out voters to encourage them in one manner or another. The comment from many was, well, you need better enforcement of the law. If that is the intent, that is fine, I think we need to read into the Record that is the intent of this body and I think the two political parties should pay heed to that as well as the Secretary of State, whoever it is at the time of elections, that there will be stronger watchdog enforcement of that law barring further legislative action.

There is a problem, as was documented in the report, of influence at the polls. Should we choose not to address it within this body, it will have to be taken on in a different manner — this was an attempt to clarify influence at the polls.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Hillock of Gorham that House Amendment "B" (H-599) to Committee Amendment "A" (S-276) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 200

YEA - Aikman, Ault, Bailey, H.; Barth, Birney, Bowers, Cameron, Campbell, Constantine, Dexter, Donnelly, Farren, Foss, Hillock, Holt, Hussey, Johnson, Joy, Ketterer, Kutasi, Lemke, Libby Jack, Lipman, Look, MacBride, Marsh, Michael, Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plowman, Reed, G.; Robichaud, Rowe, Simonds, Small, Stevens, A.; Taylor, Thompson, True, Tufts, Whitcomb, Zirnkilton.

NAY - Adams, Ahearne, Anderson, Bailey, R.; Bennett, Bruno, Carleton, Caron, Carr, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coffman, Coles, Cross, Daggett, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Farnum, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heeschen, Heino, Hichborn, Hoglund, Jacques, Joseph, Kilkelly, Kneeland, Kontos, Larrivee, Lemont, Libby James, Lindahl, Lord, Marshall, Martin, H.; Melendy, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Reed, W.; Richardson, Ricker, Rotondi, Ruhlín, Saint Onge, Simoneau, Skoglund, Spear, Stevens, K.; Strout, Sullivan,

Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, Young.

ABSENT - Aliberti, Beam, Brennan, Cote, DiPietro, Dutremble, L.; Gwadosky, Jalbert, Kerr, Michaud, Rydell, Saxl, Tardy, The Speaker.

Yes, 46; No, 91; Absent, 14; Paired, 0; Excused, 0.

46 having voted in the affirmative and 91 in the negative with 14 being absent, the motion to indefinitely postpone House Amendment "B" (H-599) to Committee Amendment "A" (S-276) did not prevail.

Subsequently, House Amendment "B" (H-599) to Committee Amendment "A" (S-276) was adopted.

Representative Coles of Harpswell offered House Amendment "F" (H-662) to Committee Amendment "A" (S-276) and moved its adoption.

House Amendment "F" (H-662) to Committee Amendment "A" (S-276) was read by the Clerk.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: What this amendment does is that it restores the reasons for absent voting. One of the recommendations from the Commission was to have Saturday voting to allow people to vote ahead of time and not on Election Day. There was a little terminology issue there but the idea was that they would be able to come in and vote if they wanted to on a Saturday prior to the election.

The committee did not feel comfortable asking all municipalities to be open on Saturday to run a full election on Saturday as well as the Election Day following that on Tuesday, so we had quite a discussion of removing the cause for absent voting.

I hope you will think about this very carefully. We used to have a series of reasons why you could vote absentee and you in fact checked one of those reasons and there were a variety of them. I think there was one that kind of said "other" and you could fill in whatever didn't fit under it. Then we changed that system and went to one block that you checked and when you checked that block, you were saying that you fit into one of the categories and some of the categories were being absent from the municipality on the day or having some kind of a disability, there were a handful of reasons. I think that it is a new concept and it is a novel concept that it is okay to vote on a day other than the Election Day. I guess that is the issue that I hope you will think about when you decide how you wish to vote on this.

I was involved in some discussions on this a couple of years ago by virtue of being on this committee and I know there are a number of people who are very concerned that people not vote on any day other than Election Day. I would ask you again, what is our goal? We have had other people speak to the issue of disenfranchising citizens, of thinking that somehow they are not capable of making a decision of when to vote. To many people it is a hardship for them to be able to vote on Election Day. I gave, as an example, during the committee meeting the fact that my husband works out of town and frequently he works late or is asked to work late and it would be a hardship for him to then drive back to Augusta to vote and then go back and work because he works at a hospital that requires coverage and he doesn't always know if he is going to work late. For people who have jobs like that, who leave early and get back late, is it that important that we constrain them to

Election Day? Is it not possible that we can facilitate their being able to vote by allowing them to vote ahead of time, absentee?

I would just ask that you think about that when you think about voting on this. I would hope that you give some serious consideration to allowing the committee bill, which has absent voting without cause, to go forward.

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

Representative COLES: Mr. Speaker, Men and Women of the House: The purpose of allowing absentee ballots is to enable those who will be absent from the town or otherwise unable to attend the polls on Election Day. In spite my sympathy for some of the problems the Representative from Augusta described, what the bill does is go way beyond the concept that she described. It essentially says that the polls will open the first day absentee ballots are available and will remain open until Election Day to everyone who wishes to — in fact, you could theoretically have everyone in town vote the first day absentee ballots are available under the bill the way it is written. That is usually the first week of October, so in essence, you have a 30 day open poll.

This means, as things are now done routinely in campaigns, people would be voting before they have heard any debates usually, before there have been any articles in the papers about the bond issues or the referendum issues, before there have been any candidate profiles and the only way to counter that would be to start your campaign a full month earlier and make sure you finished them by the beginning of October because that is the only way to make sure you would hit the voters before they vote.

If we want to lengthen our campaign season and if we want to encourage voting without uninformed voting, voting before people have a chance in fact to find out who the candidates are, the issues, the bond and referendum items, fine, but I don't think that is a good idea.

It seems to me that we ought to leave absentee ballots as they are to serve its present purpose, to enable people who cannot vote on Election Day to vote. We should not allow absentee ballots to be used to create a 30 day open poll. Thus, I hope you will support my motion to adopt House Amendment "F."

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is adoption of House Amendment "F" (H-662) to Committee Amendment "A" (S-276). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 23 in the negative, House Amendment "F" (H-662) to Committee Amendment "A" (S-276) was adopted.

Representative Whitcomb of Waldo offered House Amendment "C" (H-601) to Committee Amendment "A" (S-276) and moved its adoption.

House Amendment "C" (H-601) to Committee Amendment "A" (S-276) was read by the Clerk.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: House Amendment "C" moves the recount process to the court. If I could briefly explain how the amendment works — it requires that winners who request a recount have the Chief Justice designate an active or retired judge to be the overseer of the recount and that after the

inspection, if that is so requested, the court have a hearing with the candidates to clarify the rules and procedures and that the judge designate a time and place for a recount and authorizes the candidates to select counsel and to pick recount officials.

During the recount, the judge has the authority to segregate the ballots — provisions that are also in this statute and the judge is the sole person with responsibility for packaging ballots during the recount, to take charge of voting lists. If there are any challenged ballots, those candidates who challenge ballots may appeal to the Chief Justice of the court.

The reason that I offer this amendment is to remove many of the arguments and much of the contentiousness of the recount process that we observed over the last several months. The court, although not without its faults, does not come with the built-in liability of being a part of one political party or another and, therefore, open to the criticism that the party, not of the party of the Secretary of State, can offer.

Recounts under this provision would be conducted and would be maintained under the oversight of the independent and neutral court.

We think by taking recounts to the court simply removes another one of the spots that will cause (inevitably) arguments and will perhaps help restore public confidence in the process and remove it from consideration from some of the criticism that has been offered.

More than half of the other states in the union do it this way. From our research, at least 29 states have the judicial department in charge of recounts at varying levels from the dramatic where every election ballot in some states is impounded and sealed for potential recount to a less dramatic as we are proposing. We have checked with the court, they don't seek or invite extra work but, on the other hand, they are not opposed to this piece of legislation and do not feel that this would be an undue burden.

I want to emphasize again that we think this amendment takes some of the argument, some of the contentiousness that we have all been through and been subjected to over the last several months, out of the process. There are very inherent suspicions when you are part of a recount process and the individuals who oversee that process are known to be very active in the campaigns and the candidacy of the opponents that you face across the table in the recount. That isn't necessarily inevitable in the process as it exists now, but it is the process and it leads to many of the arguments that were offered one way or the other.

We have seen many reforms offered, many discussed and many adopted here today. This is perhaps the most dramatic in terms of a change in the process. It has been debated and discussed in a number of forums and we wanted to bring it to the floor of the House for a final discussion tonight. You have before you (that has been on the calendar) a piece of legislation that said in its title that it takes the recounts to the court when in fact the title is a bit misleading and that matter is simply the appeals to be decided by the court. As those of you who have followed the process know, that requires a Constitutional Amendment. However, this piece of legislation is something for us to decide. We can guarantee that now this legislature has negated the

efforts to have an elected Secretary of State and a couple of the other reform measures that were before us that the present arrangement for recounts will lead to some of the conflict that we have been through. There will be accusations, fair or unfair, that those parties engaged in the recount process as it is now designed, are not impartial.

That having been said, I urge you to support this amendment to the very good Committee Report.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I would certainly agree with Representative Whitcomb in one area and that is that this is a very dramatic change. I would like to remind House members that this was not a part of the Commission's recommendation. There was a recommendation to allow the appeals to go to the Judiciary and I personally have some very serious concerns over that.

I would just like to remind you that moving the locus of decision making does not make it less contentious. It does not mean that someone other than people will be making those decisions. I think that in a lot of the conversations we have had this year, we have seen bills that come forward seeking to move difficult decisions to the Judiciary because, for some reason, they are endowed with decision making ability that others don't have, is simply an erroneous assumption and I reject that in its very basic nature. Simply because they are members of the Judiciary does not mean that they are more capable in making a decision than we are. There are three branches, this has traditionally been in our branch, and I believe that that is exactly where it should stay.

I urge you to oppose the pending motion.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I would like to agree with Representative Daggett on one point and that is that this is not part of the Commission's Report. But, I would like to add to that the fact that part of the Commission's Report dealt with the popular election of the Secretary of State which I think would have been the preferable method to bring increased accountability, increased perspective and less involvement of the legislative branch in the recount process. That, unfortunately, has not survived the legislative process. So, I think it is entirely appropriate that having been rejected by the legislature that we look at another method for bringing the recounts under what I consider a better system, a system that is going to be more accountable because it is going to be less partisan and I think the amendment offered by Representative Whitcomb does that and I encourage you to support it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I personally feel that we have got to do something to bring integrity back into the system. Back in the late 1960's and early 1970's, I recall one recount that I was involved with as a state trooper where I collected all of the ballots, every single ballot in Waldo County, transported those to Augusta and stood guard over those ballots 24 hours a day until the recount was

completed. Back then, recounts were serious business.

I couldn't believe it this year to find out how lax this state has become when the ballot tampering scandal was revealed. I think this amendment would bring some integrity back into the system that is desperately needed and I would urge your support for this amendment.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: In regard to the comments of the last Representative, I would just say that the bill does address security of the ballots in a very careful way and the State Police would again be involved if the bill should pass. The security of the ballots is not what is in front of you on this amendment, the security has been addressed in the bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Colleagues of the House: I would ask you to please support this amendment. The committee did not choose to include this in its bill. It was on the condition that any concerns that were not unanimously accepted in committee could be brought to the floor and this is my opportunity to voice my support for this particular provision.

I believe in all the measures that the special commission and the Legal Affairs Committee put into this particular piece of legislation, we have significantly tightened up the actual process of voting on Election Day. That is step one. That tightens up the control and it is under public purview so that the public is the controlling factor, helping maintain the security along with the process.

What this amendment does is tightens up the security following Election Day. Whenever there is a recount now, currently the process is handled by the Secretary of State's Office. Let's be realistic, the Legislative Branch and the Executive Branch are the two political branches of government, that is just the nature of the system. When you have recounts in the political branch, they are subject to scrutiny and to criticism. I am speaking on a very general level. The Judicial Branch, however, is seen as the non-political branch of government. It is the government whose job it is to adopt with as much effort as humanly possible a neutral stance when hearing concerns, considerations and questions. I believe it is important since we have put all the security on the Election Day process that we continue this security and remove the recount process from the political arena and put it into the non-political arena for the security of each and every person who participates in that recount as well as the security of the people who cast their votes.

Please support this amendment.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I would like to read a couple of comments that I think are relevant to this subject because there has been the suggestion made that there is nothing wrong with the process that exists. I would like to quote from a guest columnist written by the Secretary of State as he described the ballot investigation and incident last December. This does not necessarily suggest his position on this particular amendment because I am not certain of what

that is, but to quote Bill Diamond, "Sadly, the recount process has become increasingly political and contentious. This has resulted in our staff having to serve as referees" etcetera, etcetera.

The point of my talking about what the process has become is that it cries out for change. When the people who were overseeing the recounts are known to be active in the political campaign of the opponent, I realize for many of you it is difficult to put yourself in that position but it is a very, very uncertain circumstance and leads to accusations that, frankly, are sometimes false. The person who is in charge of elections and commissions is a former member of this body, a person I enjoyed working with, who is very active in donating to campaigns. In a sense, that individual is subjecting himself to a great deal of criticism just simply by the role he occupies. There were comments made to some of the candidates during the recount that were taken as slight of hand, that were taken perhaps out of context, but again, when your political future is on the line, a great deal is read into what is said and what is not said. It just seems to be the wrong environment.

There are at least five individuals in the Secretary of State's Office who are active donors to campaigns of obviously the Democratic party since he is there to privilege the majority party. The integrity of these individuals should not be subject to question. On the other hand, those from the other political party, by design, will have questions with the current process. It is true that the Commission Report and the bill as proposed at least up to this point, assuming that it is not stripped entirely of the stronger provisions which we know there have been efforts to do, not necessarily in this body, contains much improved security. We have taken major steps in agreement.

This is a further step to remove the points that cause a great deal of concern. You can be guaranteed that in further recount processes, the people will be even more watchful, that arguments and allegations will fly even faster. It is a very difficult arena in which a political entity should be forced to govern and make decisions. It is only for the good of the process that it be handed to another branch. I agree at times with the Representative from Augusta, not always beyond criticism to be in a supervisory capacity, and that is the intent of this piece of legislation.

I think we make a much more compelling argument that we are going to substantially reform the election and particularly the election recount process by removing it from any pretext of control by the legislative body. I would think as a majority that that would be something that a majority would want to embrace because the allegations will continue with the present design.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is adoption of House Amendment "C" (H-601) to Committee Amendment "A" (S-276). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Look of Jonesboro requested a roll call.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is adoption of House Amendment "C" (H-601) to Committee Amendment "A" (S-276). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 201

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Chase, Clement, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Fitzpatrick, Foss, Gould, R. A.; Greenlaw, Heino, Hichborn, Hillock, Hussey, Jacques, Johnson, Joy, Ketterer, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Michael, Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, Ott, Pendexter, Plowman, Reed, G.; Reed, W.; Richardson, Robichaud, Rowe, Ruhlin, Simonds, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, Townsend, E.; True, Tufts, Vigue, Whitcomb, Winn, Young, Zirnkilton.

NAY - Adams, Ahearne, Brennan, Carroll, Cashman, Cathcart, Chonko, Clark, Cloutier, Coles, Constantine, Cote, Daggett, Driscoll, Erwin, Faircloth, Farnsworth, Gamache, Gean, Gray, Gwadosky, Heeschen, Holt, Joseph, Kilkelly, Kontos, Lemke, Melendy, Mitchell, E.; O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Rand, Ricker, Rotondi, Saint Onge, Skoglund, Stevens, K.; Sullivan, Swazey, Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth.

ABSENT - Aliberti, Beam, Bowers, Coffman, DiPietro, Dore, Dutremble, L.; Hale, Hatch, Hognlund, Jalbert, Kerr, Larrivee, Lord, Martin, H.; Michaud, Pendleton, Plourde, Pouliot, Rydell, Saxl, Tardy, The Speaker.

Yes, 78; No, 50; Absent, 23; Paired, 0; Excused, 0.

78 having voted in the affirmative and 50 in the negative with 23 absent, House Amendment "C" (H-601) to Committee Amendment "A" (S-276) was adopted.

Representative Treat of Gardiner offered House Amendment "H" (H-665) to Committee Amendment "A" (S-276) and moved its adoption.

House Amendment "H" (H-665) to Committee Amendment "A" (S-276) was read by the Clerk.

Representative Bennett of Norway requested a Division on adoption of House Amendment "H" (H-665) to Committee Amendment "A" (S-276).

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: This amendment removes a provision and seems to talk about an issue that, to my recollection, is not a problem in the bill that was reported out of the Legal Affairs Committee.

If I can give you a little bit of background information — the committee, after hearing the Commission's Report and hearing testimony from many, many municipal clerks, took into consideration that it was very difficult keeping track of not only who was on the voting list but making sure that each person who registers to vote is indeed someone who can register legally to vote in that municipality. With the motor voter system and the same day



registration, there is not always the time that a Clerk needs to verify the information and clarify that a person should be officially placed on the roll. So, what the committee did, we as a group and the commission, decided not to get rid of the same day registration which is a very valuable element to our system, instead we said to help the Clerks, that during the 15 day period prior to Election Day, anyone who registers to vote can register to vote, but when that person does come to vote on Election Day, that person's ballot is identified so that in the event of a recount, if that person was not eligible to vote, that vote can be disputed. This in no way restricts, infringes on or in any way impedes a person's right to vote in an election. It does not reduce the force of that vote, it does not hinder in any way that person's capacity to express their views. All it does is it give the Clerks a mechanism to make sure that the rolls are kept updated and that everything is as it should be. That is what is in the bill.

This amendment would strike that provision, consequently making it, once again, more difficult for the Clerks to keep their lists updated and make sure everything is as it should be.

I would urge you to vote against House Amendment "H" to Committee Amendment "A."

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I would like to explain what this amendment does. It actually does not do everything that the Representative from Caribou, Representative Robichaud, said it does. On page four of the Committee Amendment, there is Section 10, Section 10 does two things and this amendment only addresses part of Section 10. Part of Section 10 says that through motor voter and mailing cards that those get to the voter registrar or the Town Clerk 15 days before the election. My amendment would not change that in any way. I know that Town Clerks are concerned about that, they want to have time to enter those names into the computer or their handwritten lists in time for the election and my amendment would not affect that.

What it does delete from the bill, however, is the section that says that people who register to vote in person 15 days before the election have to provide additional information to the Clerk that everybody else doesn't have to provide. They have to provide proof of their identity and they have to provide proof of their residency. That is something that nobody else has to do.

Maine had, in this last election, the highest voter participation rate in the entire country. I was crowing about this to people I know around the country and they mentioned it on television. One of the reasons is that we have a very liberal voter registration law and it worked very effectively. This bill is intended to address problems that came out in the tampering of ballots. It has nothing to do with this particular provision of the bill that I am trying to strike with this amendment.

I don't think that there is a real problem here. I think we should think carefully before we impose additional requirements on people for no apparent reason. I don't think this is a good provision.

It is also totally inconsistent with another part of the bill that several members of the committee have been just touting which is the provision that

allows people who are homeless and sleep under underpasses and homeless shelters to go vote and to register to vote. How is someone who sleeps under an underpass supposed to provide proof of their residency in a community? Even though the bill says that there isn't any presumption against them, their registration is invalid and I think it would be because this other provision says that if they can't provide proof, then their ballot will essentially be marked and there is going to be this presumption that that is a ballot that can be challenged. I think this is not something that is going to help this state. It is not a pro-democratic kind of provision and I hope you will join with me in voting to adopt House Amendment "H."

Subsequently, House Amendment "H" (H-665) to Committee Amendment "A" (S-276) was adopted.

On motion of Representative Bennett of Norway, the House reconsidered its action whereby House Amendment "H" (H-665) to Committee Amendment "A" (S-276) was adopted.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is adoption of House Amendment "H" (H-665) to Committee Amendment "A" (S-276). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

52 having voted in the affirmative and 50 in the negative, House Amendment "H" (H-665) to Committee Amendment "A" (S-276) was adopted.

Representative Bennett of Norway moved that the House reconsider its action whereby House Amendment "D" (H-644) to Committee Amendment "A" (S-276) was adopted.

Representative Daggett of Augusta requested a vote on the motion to reconsider.

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

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I think it is important that we have a debate on this important amendment. I gave a hasty and hurried reading to this earlier and didn't object so strongly when I read the Statement of Fact. However, the Statement of Fact is in error and I believe that we should debate this, so I encourage you to reconsider it so that we can take it up once again and get into more of the details.

I would like to just let the body know about what it is voting for and that is why I moved to reconsider.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of Representative Bennett of Norway that the House reconsider its action whereby House Amendment "D" (H-644) to Committee Amendment "A" (S-276) was adopted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Bennett of Norway requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the

Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Men and Women of the House: Again, I think that this amendment is in serious need of discussion and deliberation by this body. I know the hour is getting late but this is a very important L.D. and I think this has been recognized all along as being an important L.D. and that is why the Commission was established to begin with by the Secretary of State. I believe that we should reconsider adoption of House Amendment "D" because the Statement of Fact states that it would strike out the new language in Committee Amendment "A" that states that absentee ballots can only be given out on the last 14 days before the election as well as on election day.

If that is truly what Committee Amendment "A" did, I wouldn't be asking for reconsideration. However, Committee Amendment "A" actually deals only with giving out absentee ballots to third party individuals during the last 14 days. It does not prohibit somebody from getting an absentee ballot within the last 14 days. So, the Statement of Fact, I believe, is erroneous. It also allows third parties to collect only three ballots at a time for distribution rather than the huge numbers that are now collected by people and taken out to individuals needing to vote.

I think the purpose of Committee Amendment "A" and the reason we should reconsider adoption of this House Amendment is that it would tighten up third party access to absentee ballots. We have broadened in recent years the ability of people to get absentee ballots through other methods than third parties and I believe the commission and the Legal Affairs Committee was absolutely correct in tightening up the third party access. This Amendment would weaken that and I think the House should definitely reconsider its action where this went under the hammer earlier. I encourage you to please vote to reconsider this.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Bennett of Norway that the House reconsider its action whereby House Amendment "D" (H-644) to Committee Amendment "A" (S-276) was adopted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 202

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bowers, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Heino, Hillock, Joy, Kneeland, Kutasi, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Michael, Morrison, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plourde, Plowman, Reed, G.; Reed, W.; Richardson, Robichaud, Rowe, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Tufts, Wentworth, Whitcomb, Young, Zirnkilton.

NAY - Adams, Ahearne, Brennan, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heesch, Hichborn, Hoglund, Holt, Hussey, Jacques, Johnson, Joseph, Ketterer, Kilkelly, Kontos, Larrivee, Martin, H.; Melendy, Mitchell, E.; Mitchell, J.; Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Rand, Ricker,

Rotondi, Ruhlin, Saint Onge, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Winn.

ABSENT - Aliberti, Beam, DiPietro, Dore, Dutremble, L.; Jalbert, Kerr, Lord, Michaud, Pouliot, Rydell, Saxl, Tardy, The Speaker.

Yes, 67; No, 70; Absent, 14; Paired, 0; Excused, 0.

67 having voted in the affirmative and 70 in the negative with 14 being absent, the motion to reconsider did not prevail.

Subsequently, Committee Amendment "A" (S-267) as amended by Senate Amendment "F" (S-325) and House Amendments "B" (H-599), "C" (H-601), "D" (H-644), "E" (H-656), "F" (H-662), and "H" (H-665) thereto was adopted.

Under suspension of the rules, L.D. 1477 was read the second time and passed to be engrossed as amended by Committee Amendment "A" (S-267) as amended by Senate Amendment "F" (S-325) and House Amendments "B" (H-599), "C" (H-601), "D" (H-644), "E" (H-656), "F" (H-662), and "H" (H-665) thereto in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 7 were taken up out of order by unanimous consent:

ENACTOR

Emergency Measure

(Reconsidered)

An Act to Collect Baseline Data to Facilitate Health Care Reform (S.P. 535) (L.D. 1561)

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

On motion of Representative Pineau of Jay, the House reconsidered its action whereby L.D. 1561 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-667) and moved its adoption.

House Amendment "A" (H-667) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-667) in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

ENACTOR

Later Today Assigned

An Act to Enhance the Authority of the Legislature to Review Rules (H.P. 777) (L.D. 1050) (C. "A" H-557)

Was reported by the Committee on Engrossed



Bills as truly and strictly engrossed.

Representative Paradis of Augusta moved that L.D. 1050 be tabled until later in today's session pending passage to be enacted.

Representative Bennett of Norway requested a vote on the motion to table.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of Representative Paradis of Augusta that L.D. 1050 be tabled until later in today's session pending passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Coles of Harpswell requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of Representative Paradis of Augusta that L.D. 1050 be tabled until later in today's session pending passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 203

YEA - Adams, Ahearne, Brennan, Campbell, Caron, Carroll, Cashman, Cathcart, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Gould, R. A.; Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Jacques, Johnson, Joseph, Ketterer, Kontos, Larrivee, Lemke, Melendy, Mitchell, E.; Mitchell, J.; Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pinette, Plourde, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Saint Onge, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Treat, Vigue, Walker, Wentworth, Winn, Young.

NAY - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Birney, Bowers, Bruno, Cameron, Carleton, Carr, Chase, Clukey, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Hillock, Hussey, Joy, Kilkelly, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Martin, H.; Michael, Morrison, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plowman, Poulin, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, Tracy, True, Tufts, Whitcomb, Zirkilton.

ABSENT - Aliberti, Bailey, H.; Beam, Chonko, DiPietro, Dutremble, L.; Gamache, Jalbert, Kerr, Michaud, Pineau, Pouliot, Rydell, Saxl, Tardy, The Speaker.

Yes, 69; No, 66; Absent, 16; Paired, 0; Excused, 0.

69 having voted in the affirmative and 66 in the negative with 16 being absent, the motion to table until later in today's session did prevail.

The following items appearing on Supplement No. 8 were taken up out of order by unanimous consent:

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Remove the Repeal Date from the Laws Governing Equitable Insurance Coverage for Mental Illness" (EMERGENCY) (H.P. 138) (L.D. 183) which was passed to be engrossed as amended by Committee Amendment "A" (H-582) as amended by House Amendment "A" (H-660) thereto in the House on June 14, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-582) as amended by House Amendment "A" (H-660) thereto and Senate Amendment "A" (S-302) in non-concurrence.

On motion of Representative Dore of Auburn, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Reduce the Influence of Money in Elective Politics" (H.P. 1150) (L.D. 1550) which was passed to be engrossed as amended by House Amendments "B" (H-654) and "C" (H-658) in the House on June 9, 1993.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

The House voted to Insist.

The following item appearing on Supplement No. 9 was 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: Resolve, to Establish the Commission on the Status of Alleged Child Abusers (EMERGENCY) (H.P. 991) (L.D. 1322) have had the same under consideration and ask leave to report:

That they are unable to agree

(Signed) Representative ERWIN of Rumford, Representative MELENDY of Rockland, and Representative MURPHY of Berwick - of the House.

Senator CLEVELAND of Androscoggin, Senator CONLEY of Cumberland, and Senator BEGLEY of Lincoln - of the Senate.

Was read.

Representative Erwin of Rumford moved that the Committee of Conference Report was accepted.

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

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: Even though the Committee of Conference on the Resolve to Establish the Commission on the Status of Alleged Child Abusers were unable to agree, my Cochair on Audit and Program Review did agree with the three members of the House. For that reason, we thought it important to send the following letter to Commissioner Jane Sheehan of the Department of Human Services. "Dear Commissioner Sheehan: We are writing to request your cooperation and that of your staff in pursuing the intent of L.D. 1322 Resolve, to Establish the Commission on the Status of Alleged Child Abusers. Notwithstanding the failure of the bill to become a law, we would like to take advantage of Bureau Director Merith Bickford's invitation to learn more about the policies and practices of the department in regard to child abuse referrals, substantiation of cases and the management of records pertaining to child abuse cases. As you know, this is a matter of utmost importance to us, to our constituents and to the people of the State of Maine. Accordingly, a number of interested legislators will be contacting your office early in the summer and we look forward to working with you and your staff to learn more about these issues. Thank you for your consideration of our requests. Sincerely, John J. Cleveland, Senate Chair; Phyllis R. Erwin, House Chair."

Subsequently, the Committee of Conference Report was accepted and placed on file.

Was read.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: The original bill that you see here, L.D. 1233, is not in question. However, there is an amendment that was attached to this bill that raises a number of questions about the future development of affordable housing, special needs housing and group homes in this state.

The intent of the amendment was to prevent current subsidized housing owned by private developers that, when it is sold to non-profit organizations, it then becomes property tax exempt. In several situations in the state, those units have been transferred to non-profit housing and the property tax that had been generated from those units are then no longer available to a particular municipality. However, in drafting the amendment, the committee cast a very wide net and included a number of affordable housing projects as well as group homes. Any type of housing would be affected that generates rent. We would like to recall this amendment in order to clarify the language and to tighten it up so that it would still have its initial intent but not be as widespread as it is currently written.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I would hate to disagree with the good Representative down the aisle from me, Representative Brennan, but this was a unanimous committee report. It is currently on the Governor's desk. We have discussed the problems with the wideness of the net. It is our thought as a committee that it is in the Governor's hands at this point and that perhaps what needs to be done is, in January we will tighten the law and make sure that group homes or the potential of excluding group homes, gets reviewed. There is some concern about what happened that brought this amendment about is that in Bangor a developer essentially leveraged through the tax exempt status another \$100,000. The community of Bangor ended up owning a large section of non-taxable property. That is what the tightening up was meant to do. You have all got problems in your communities with property that moves from taxable to non-taxable status. I would hope that you would defeat this motion.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Though I have the greatest respect for the members of the Taxation Committee and for the arguments just posited by Representative Dore, all of us are doing everything we can to keep from passing anything back to the local property tax. As Representative Brennan has stated to you, it is unfortunate, however, that the language of the amendment was so broad. It was intended to deal with a particular developer who, frankly, made more money than one wanted to have happen when he sold a project to the non-profit group in the area. That should not make us make it very difficult for group homes and others to be built.

Having worked at the Maine Housing Authority for four years, I can tell you that we have come to

The following items appearing on Supplement No. 10 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 Concerning Limits on Security Deposits" (H.P. 898) (L.D. 1213) have had the same under consideration and ask leave to report:

That they are unable to agree.

(Signed) Representative DAGGETT of Augusta, Representative POULIN of Oakland, and Representative STEVENS of Sabattus - of the House.

Senator O'DEA of Penobscot, Senator HANDY of Androscoggin, and Senator CAREY of Kennebec - of the Senate.

Committee of Conference Report was read and accepted and placed on file.

#### ORDERS

On motion of Representative BRENNAN of Portland, the following Joint Order: (H.P. 1164) (Cosponsor: Senator BRANNIGAN of Cumberland)

Ordered, the Senate concurring, that Bill, "An Act to Facilitate the Assessment and Collection of Municipal Property Taxes," S.P. 402, L.D. 1233, and all its accompanying papers, be recalled from the Governor's desk to the House.

depend more and more on non-profit, genuine small non-profit groups, to fill in a very important niche in our stock of affordable housing.

I would hope that you would join in recalling this bill so that we can take a look at that amendment and make sure that these non-profits do of course pay their share, their fair share, to the local community but that they are not absolutely kept out of the market for filling this very important niche. Please let us at least look at this amendment. Unfortunately, it was one of those unanimous reports. We did not have a chance as a body to debate the amendment and it went a little further than most of us would like for it to go.

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

Representative SULLIVAN: Mr. Speaker, Ladies and Gentlemen of the House: Reference was made to the City of Bangor — the problem arose because of a rental unit having over 200 rental units and owned by a corporation, the corporation simply rolled it over and, using money that was backed by state housing funds, then formed a new corporation. The same corporate owners, same tenants, the only change was that it now was non-profit. The City of Bangor lost \$150,000 in property taxes with that one move.

There was a second one that saw that this was a profitable way to go and so rolled over and it also has become non-profit and the City of Bangor has lost another batch and a third one is waiting in the wings. That is the time when this legislation was introduced.

I would hope that you would allow this to be passed and we can make the adjustments in January.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I would not want anyone in this House to think that I did not agree with the concerns raised here. I think it is inexcusable to use any kind of taxpayer dollars to churn property without keeping affordable housing. I agree very much with the statements that were just made but I do think the net is much too wide and we do not want to be in a position of preventing group homes and small non-profits from doing their job. I hope you will recall this bill from the Governor's desk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Oliver.

Representative OLIVER: Mr. Speaker, Men and Women of the House: I thought that at this late hour I had a lot to say on this bill and I agree with Representative Mitchell, we are concerned with the situation in Bangor. We had the same situation in Portland, so we understand the need for the bill. This is not going to compromise that position. I finally will vote for the bill and I am sure Representative Mitchell will vote for the bill. What we are talking about is qualifying language.

Let me give some examples. Louise Montgomery, recently deceased, put a lot of energy and a lot of heart and faith in Portland. She was a woman in her 70's whose husband had passed away. She bought an unoccupied house on Bracket Street. She saw a community need. She created one of the best, one of the most caring halfway houses for homeless men, which is a very difficult population sometimes to deal with, transients, people who are sleeping under bridges. Louise Montgomery went out and used her own

money, did not get a salary, set up a non-profit and created a situation which saved thousands of dollars for Portland besides being a caring place and helping those individuals move on with their lives.

Holy Innocence, another example, came into our neighborhood realizing that there were many people leaving our mental institutions, needing the transitional services to phase back successfully into their community. They, again, bought an unoccupied house on Bracket Street and created the services.

Another example, the Mercy Hospital, realizing that we have heavy alcoholism in our community, especially among young people, went out and bought a house on State Street, created one of the most successful ongoing alcohol treatment programs in the state. None of these three programs would have been successful or completed under the language as now in the bill.

So, what we are asking you to do — certainly we want a bill that is going to protect the Bangor's and the Portland's and other municipalities from the large developer, who after 20 years of subsidies, wants to unload his property because the HUD contract has run out and he wants to sell it to a non-profit so he can increase his profit. We want the same thing, Representative Sullivan, and to those who have questions. I am glad you raised those legitimate questions. What we don't want to do during these times of cutbacks in AFDC, General Assistance and phasing out of our mental institutions is to not allow the creative non-profits that create the group homes. So, please allow us to bring this back to put the qualifying language in and to protect those interests that you are concerned about.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Representative Oliver has just made several compelling cases for his position and I think that there is a great deal of merit in his position.

I would just like to remind you that nothing will change for any of those housing situations because this is prospective law. This begins July 1, 1993. It is on the Governor's desk, it only involves prospective deals. It is meant to avoid situations like the one in Bangor where they lost \$150,000 in property taxes in one deal alone. That is annually, folks. I just hope that you can stay with the unanimous committee report.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I want to clarify one point. We have had two people already mention the fact that this bill could be clarified next January and it could be tightened up to address some of the concerns we have raised. However, we have had a legal opinion that if it is put off until January that this bill may then be subject to the 50 percent reimbursement by the legislature back to a local municipality because it would be a tax exemption. So, we had initially discussed putting it off until January but that didn't seem to be a prudent move in light of the current fiscal situation facing the state.

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

A vote of the House was taken.

62 having voted in the affirmative and 42 in the negative, Joint Order, (H.P. 1164) was passed and sent up for concurrence.

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The following item appearing on Supplement No. 11 was taken up out of order by unanimous consent:

**SENATE PAPERS**

The following Joint Order: (S.P. 537)

ORDERED, the House concurring, that in accordance with emergency authority granted under the Revised Statutes, Title 3, Section 2, the First Regular Session of the 116th Legislature shall be extended in accordance with the provisions of said section.

Came from the Senate, read and passed.

Was read.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I understand the Order very clearly, the only thing is, I think there should be another Order that accompanies this that tells me as one legislator — this says it will extend five days, I would like to know if it is a time certain and where the other Order is that goes along with this?

Without that order Mr. Speaker, I would move that this Order be rejected.

Furthermore, I move that we stand adjourned until ten o'clock tomorrow morning.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of Representative Strout of Corinth that the House stand adjourned until ten o'clock tomorrow morning. 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 49 in the negative, the motion did prevail.

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On motion of Representative Martin of Eagle Lake, Adjourned until 10:00 a.m., Tuesday, June 15, 1993.

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