

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
69th Legislative Day
Tuesday, June 15, 1993

The Speaker resumed the Chair.

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

Prayer by the Reverend David A. Michaud, Canaan Calvary Church.

The Journal of Monday, June 14, 1993, was read and approved.

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

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 Bill "An Act to Allow Political Parties to Determine the Method of Nominating Candidates" (H.P. 1064) (L.D. 1432).

Sincerely,

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

Was read and ordered placed on file.

The following Joint Order: (S.P. 536)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so to the call of the President of the Senate and the Speaker of the House when there is need to conduct legislative business.

Came from the Senate, read and passed.

Was read.

On motion of Representative Strout of Corinth, tabled pending passage and later today assigned.

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-165) on Bill "An Act to Establish Term Limitations for Presiding Officers, Leadership and Committee Chairs" (S.P. 249) (L.D. 768)

Signed:

Senators: BUTLAND of Cumberland
BERUBE of Androscoggin

Representatives: ROWE of Portland
KILKELLY of Wiscasset
BENNETT of Norway
YOUNG of Limestone
LOOK of Jonesboro
GRAY of Sedgwick
DUTREMBLE of Biddeford

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: ESTY of Cumberland

Representatives: AHEARNE of Madawaska
WALKER of Blue Hill
JOSEPH of Waterville

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

Reports were read.

On motion of Representative Joseph of Waterville, the Minority "Ought Not to Pass" Report was accepted in concurrence.

Non-Concurrent Matter

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) which was passed to be enacted in the House on June 14, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-367) as amended by Senate Amendment "A" (S-328) thereto in non-concurrence.

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

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

Non-Concurrent Matter

An Act Requiring Public Schools to Purchase Insurance through a Competitive Bidding Process (EMERGENCY) (MANDATE) (H.P. 1162) (L.D. 1560) which was passed to be enacted in the House on June 9, 1993.

Came from the Senate failing of passage to be enacted in non-concurrence.

The House voted to Insist.

Non-Concurrent Matter

Bill "An Act to Ensure Implementation of the Federal Clean Air Act Amendments of 1990" (H.P. 963) (L.D. 1294) which was passed to be engrossed as amended by Committee Amendment "A" (H-534) as amended by House Amendment "A" (H-642) thereto and House Amendment "A" (H-653) in the House on June 9, 1993.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-534) and Senate Amendment "A" (S-334) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Special Commission on Electoral Practices" (S.P. 478) (L.D. 1477) which was passed to be engrossed as amended by Committee Amendment "A" (S-276) 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 the House on June 14, 1993.

Came from the Senate with that Body having insisted on its former action whereby the Bill was 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 and asked for a Committee of Conference in non-concurrence.

On motion of Representative Gwadosky of Fairfield, the House voted to Insist and Join in the Committee of Conference.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 11, 1993

To the Honorable Members of the 116th Legislature:

I am returning without my signature or approval L. D. 818, "AN ACT to Modify the Fuel Clause for Electric Utilities."

I take this step because this bill presents a dramatic shift in the regulatory structure, at the same moment a new chair of the Public Utilities Commission comes on board. It is critical that the chair be included in formulating such a major policy change.

L.D. 818 would repeal the statutory fuel cost recovery mechanism that was established to address large fluctuations in fuel prices, and give the Public Utilities Commission more discretion in granting fuel cost adjustments to Maine electric utilities. The concept of granting the PUC more discretion in evaluating fuel-related costs of Maine utilities has merit. However, LD 818 represents a significant change in the regulatory structure and in the current economic environment introduces an unacceptable level of uncertainty as to its effect.

In the context of protracted economic weakness, this measure, as drafted, risks introducing an unacceptable level of uncertainty regarding the financial stability of Maine utilities. As this uncertainty has the potential of negatively affecting rates through the risk of lowering the bond ratings of utilities, I believe it would be imprudent to enact this measure at this time.

I had requested that the Legislature consider holding L.D. 818 over for more careful consideration during the second session. In the absence of compelling arguments for immediate enactment on this major regulatory change, and given its potential for a harmful impact on both utilities and ratepayers, I urge you to join me in rejecting this legislation, and support my veto.

Sincerely,

S/John R. McKernan, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Modify the Fuel Clause for Electric Utilities" (H.P. 603) (L.D. 818).

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark. Representative CLARK: Mr. Speaker, Men and Women of the House: This saddens me this morning to see that the Governor vetoed L.D. 818 but it did not surprise me. It saddens me to see the Governor veto this bill because I understand he didn't even take the time to listen to the three commissioners that were appointed by him, that serve under him, but instead he listened to the utility lobby. He should have listened to the PUC Commission which he appointed.

If any of you know about the pass-through on the fuel clause you know from your constituents that that is one of the first things they look at when they open their bill. Believe me, they open their bill and they look at the bill. I only wish that the Governor would have listened to his commissioners. We asked for the commissioners to sit down and talk with the Governor. I understand by talking to a few people he did not do that, he left it up to one of his staff person's to talk to them and instead he listened to the utility lobby.

This was an 11 to 2 report from our Committee. This is a bill that has been around for a long period of time. This is a bill that I sponsored over the years and I am sponsoring again. It was put in this time by the PUC itself knowing that there is a major problem with the pass-through on the fuel clause. I think if you talk to any of your constituents back home, they want something done. You voted on a bill the other day that would help reduce rates, this will reduce rates even further.

I understand that the utility lobby had a major concern with a report that was published backed in 1991 stating that this could be a disaster to the utility under bonding rating. We also asked if they could come up with a new report stating that from the bonding companies themselves, they did not do that. If they had done that, I don't think that the bill would be here today.

I think it is a very good bill. I think we ought to be voting this morning to override the Governor's veto and send a message to him that the people out there are looking for some kind of relief through their rates and we can do that by voting this morning to override.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I rise today in support of the Governor's veto even though I was one of the Majority members who voted this bill out of committee. I was also a member of that committee that asked that this be recommitted to committee and held over because some concerns, some serious concerns, were brought up after we passed the bill out. Now, we can belittle it because we don't trust utilities or whatever, but I would like to be sure before I take a step forward and maybe stepping on a land mine.

The utilities came forward and said (and was verified not by the letter they had said in committee but verified by a magazine article going through how they set bond rating) what they did when they set bond ratings for a utility, they look at a number of things. Our utilities right now, Bangor-Hydro, which serves a large area of Maine, has a bond rating which is one step above junk bonds. Anything that would jeopardize their bond rating and push them into the high risk investment portion of Wall Street would then make electric rates go up.

What I wanted to do and a number of members of the committee had done or the Chair from the other body wanted to do is hold it over and check that out and be sure before we stepped forward that it wasn't a land mine that we were going to step on.

I think if the presiding officer of either body had asked for us to hold it over to check this out, we would have extended that courtesy. I think it was just a travesty that we couldn't extend that to the Governor of our state.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: We looked at this bill very carefully in committee, had public hearings and work sessions as we do in every committee. The arguments you just heard from the Representative from Presque Isle, Representative Donnelly, that this may hurt the utilities' bond rating was brought up after the fact. We brought the bill back to the table in committee to reconsider it. We asked for some proof

other than just a generic magazine article. We were never given any proof that this would hurt our utilities.

This bill does not eliminate the fuel adjustment clause. This only makes it so it is not mandatory. The amount of money that passes through in a fuel clause should not be mandatory. It should be reviewed by our commission.

The Governor's argument that we needed to wait for a new Chairman of the Commission — well, the new Chairman of the Commission is on board and has been on board for three weeks and the Governor has not even asked him about this issue nor would he meet with the three commissioners. This bill was drafted by the PUC and was fully endorsed by the Public Advocate. It is a good consumer bill and we should vote to override this veto.

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

Representative HOLT: Mr. Speaker, Colleagues of the House: This fuel adjustment clause billing procedure that you are hearing about, perhaps some of you have not heard about this before, it harks back to the days of the First World War when the cost of fuel for utilities were passed on, dollar for dollar, to the ratepayers without any public hearings, just automatically passed onto the ratepayers.

In 1975, when there was an oil crisis, nearly \$5.9 billion in fuel adjustment increases were passed onto the consumers. As prices went up, public anger did too because the people were trying very hard to conserve. There were large public demonstrations. Some reforms were put in place such as yearly reviews of procurement policies but the fuel adjustment clause stayed in place. Does that sound familiar? People were conserving then, people have been conserving now, using less. There were plants proposed and plants being built that were not needed. Does that sound familiar?

As always, consumers face the overwhelming task of trying to overcome the power and the money of the industry. We are now in another growth decline, but are we facing the same situation? The utilities want to be bailed out again. This time, however, unlike in 1974 when Consolidated Edison of New York, for instance, could not give its common stockholders dividends, now CMP has come through one of its best earning years ever. This automatic pass-through of fuel cost has become addictive and the reason for it fluctuating oil prices and fuel prices is no longer in effect, it no longer exists.

This bill sponsored by the good Representative from Millinocket, Representative Clark, is an effort at reform to benefit the ratepayers, the little guys. The original rationale, as I said, for fuel cost adjustment automatic pass-through to the consumers has disappeared. The volatility in oil prices has disappeared.

In 1991, according to our Public Advocate, oil fired generation in Maine was less than 10 percent. We have been replacing unpredictable sources of electricity with renewable sources which are much more predictable.

Our Governor wants our new chairman of the Public Utilities Commission to have time to review this bill but can it be that he wants the PUC to wait two years before it can act on it? It is up to us to make good utility energy policy for our good new commissioner and our PUC to carry out.

Whose side are we on, the big guys or the little

guys? Give the PUC the tool it needs to bring us into the 21st Century. Please vote to override and make a little good history.

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

Representative HEESCHEN: Mr. Speaker, Members of the House: Our Executive doesn't seem to trust his own appointees. He says in his veto message that it is critical that the Chair be included in formulating such a major policy change. Well, I submit to you that this bill does exactly that. The new Chair of the committee can be intimately involved in formulating the policy change. This bill, by itself, does not make the change automatic. What the Governor in his veto message is telling his new Chair is, well, even if you do want this, you are going to have to wait another couple of years. I think we should let that new Chair get to work and be involved in this at this time.

I would urge you to override the veto.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House and Friends on both sides of the aisle: I know, and we all know, that veto overrides often take on a different complexion than the issues that surrounded the original bill. But, because this issue is very important and because I think we should also have respect enough for one another's independent thinking, I would like to walk you through, very quickly, why I think this bill is worthy of a few minute's attention this morning.

So that you know and so that we are all talking the same lingo, a fuel clause that we are discussing today is an item that was entered into law in its present form in the 1970's during the days of the energy crisis and the OPEC oil embargo. Because the price of oil was going up so quickly, it was impossible to deal with that in a normal rate case. Because that was the situation, this legislature passed a law that allowed the cost of that oil to be passed on directly to the ratepayers, automatically and totally without any oversight by the Public Utilities Commission, simply to keep the heat on and the lights burning. Well, the oil crisis is over but the clause remains and it is pumping into your wallet and mine those costs with regularity from each of the great utilities. This is without you and I having anything to say about it, without the Public Utilities Commission being able to have any opportunity to slow it down or to look at it. It simply comes and it is simply paid. This is big bucks and because it is big bucks, I think it should be a big concern of ours. That is why, despite the fact that the Utilities Committee has the regular partisan division that any committee does, nonetheless, the report came out 11 to 2 after a lot of really earnest head scratching and discussion. Even the two dissenters did so, not so much out of difficulty with the concept of the bill, but for other principled reasons that led them to conclude differently than the purpose of the particular bill that came out.

I should point out to you that all this bill does is give the Public Utilities Commission the opportunity, if they so desire, to slow down one of these pass-throughs of cost and look at it if they so desire. It does not require that they do so, it gives them the flexibility to do so and that is all.

I must confess, with respect to the Governor on

the second floor, that I am a bit puzzled for the two reasons that he cites as necessary to veto the bill, the first one being concerned about the Public Utility Commissioners. I would respond with respect that of the two sitting Public Utilities Commissioner's (we have only three in the state) the two sitting Commissioners both endorsed the original bill, both came to our committee to testify in favor of it, both signed a letter to the Governor requesting him to support it and to sign it. The one new commissioner who just arrived, the new chairperson, Mr. Welch, has now been on the job a couple of weeks, did not request that the Governor veto the bill and has not expressed an opinion about it.

Secondly, with respect, the Governor cites his concern that this will affect the utilities bond rating. As has been clearly put out by my friend Representative Cashman from Old Town, this was not raised whatsoever in the actual hearing on the bill and in fact was raised only after the bill had been passed out by committee. And though we asked repeatedly again and again for proof that this is actually going to hurt anybody's bond rating, it was never received. We saw a magazine article about how these things are something you might want to put a question mark over if you are a utility but not if you are a customer. No proof was ever received, nothing ever came to our hands that changed our opinion in the 11 majority.

I would feel a little bit better about worrying about whether or not utilities' bonds were at risk if the utilities themselves hadn't also introduced a bill, L.D. 1007, which would allow them to make risky side investments and to set up small subsidiaries that could do all sorts of business without any oversight from the Public Utilities Commission whatsoever. It seems to me, if you are arguing that it is okay to risk your money and mine when they want to, but it is wrong to risk it when we want to slow them down, then you have a consistency problem.

This is big bucks. Here is a small list of the fuel clauses that you and I have absorbed and are paying today since 1990. In 1990, Central Maine Power Company received \$52.5 million in fuel clause pass-throughs. In 1991, they received \$49.7 million in fuel clause pass-throughs. In 1992, they received \$13.2 million in automatic fuel clause pass-throughs that you and I are paying now.

In the present rate case that is before the Public Utilities Commission now, they are asking for \$17 million which may or may not end up being paid by you and I.

Likewise for Bangor-Hydro, in 1990, they received \$13.2 million automatic fuel clause pass-through. In 1991, they received \$8.1 million automatic fuel clause pass-through. In 1992, they requested a \$15.8 million automatic fuel clause pass-through.

I know your eyes roll at this long list of figures, they should, it is difficult material and that is why I think this bill, which was modified in committee to meet the concerns of all the parties that we knew of at that time, I think is a reasonable one.

I would emphasize to you, please, that it does not stop anybody's train, it just slows the train down. The Commission could look at that train car by car if they want to and let it all pass on or they can stop one car at a time if they choose to. The whole idea of the bill is to make sure that when the

train leaves the station that all Maine ratepayers are on it and not under it, which is where we have been in the past.

Hence, I urge you please to join us in maintaining what this legislature did before and voting in favor of this bill and in favor of the override.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: When this bill first came before the Utilities Committee, it seemed like a good idea and I voted for it. As I am sure happens to you occasionally, I learned more about what was included in the fuel adjustment clause and asked the committee to reconsider it. We are not just talking about escalation of oil prices which were volatile back in the 1970's, we are talking about all the power that is purchased under the qualified facility contracts in which is still a major portion of the fuel adjustment clause.

This didn't change the result and the bill came before you and was passed. We received a request from the Governor to hold this bill over until the new chairman was in place. This would have allowed it to come back before you in the short session. The committee would not support this attempt to be sure of the the wisdom of our action and thus the need for the veto. I hope you will see the wisdom of the request and vote to sustain this veto.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I will be very brief. I think a few things have been said that ought to be corrected. When we received the letter from the Governor's Office to hold this over, we brought the bill back two or three times, could not do that to get a vote in committee, mainly because the PUC commissioners want to run this bill and felt the importance of doing it now, not later. Also, if we could have gotten some information from the bonding banks or somebody other than an article that appeared in the paper or a magazine dated back to 1991 affecting their bonding rating, we would have done something, we did not get that. We asked time and time again.

The Commissioners want this bill. I sponsored the forum, it is a good bill. I challenge each and every one of you in this House today to do the right thing. I challenge each and every one of you to vote for your constituents back home, the ratepayers, so when you vote today, I hope you vote to override.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: I will add two points to what I think has been a productive debate. I hope you have been able to think and be thoughtful about the explanation that you heard from members of the Utilities Committee about why we believe strongly that this is an excellent bill at this time.

I want to read into the Record the comments from the commissioners when the bill was presented to us, their letter was dated May 5th. "The facts overwhelmingly support the conclusion that the current mandatory fuel clause is both outdated and harmful to the interests of ratepayers. The language in this bill, as you have heard other folks tell you, is permissive, not mandatory. It relies on the discretion of the commissioners who have, as you

know, a quasi-judicial function in terms of regulating the utilities."

It seems to me the Governor's veto message is flawed. I hope you read it again, wonder about the support that he offers for the position that he is taking and realize when you vote (and I hope you will take time in the midst of this discussion to read the article written by Cheryl Harrington published in the K.J. on this issue) you need to realize that you will be supporting ratepayers if you override the veto. It seems to me if you vote in support of the Governor, you will be concerned about the shareholders and not the constituents that are speaking to you when you go back home. This is an important bill for you to be able to take back home to the folks that have talked to you as they have me about their escalating utility rates.

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

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

The question is to, I think, Representative Clark. One thing I am not clear on is, in this bill in relation to reducing the fuel adjustment clause, we have a law on the books in the State of Maine that provides cogeneration plants an excessively, some people would say, high rate of return as compared to what the average consumer pays. If this goes through and the fuel adjustment rates are reduced, is there a possibility that that additional cost, 7 cents and 11 cents, could be passed back to the ratepayers? I am concerned about that.

The SPEAKER: Representative Cameron of Rumford has posed a question through the Chair to any member 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 was trying to communicate with my good colleague, Representative Kontos, and I missed part of the question.

I think if you read the bill — it does not make the commissioners automatically pass this through. Back awhile ago, we were paying \$123 per barrel of oil. We are not paying that today. We are paying a lot less and I think if you listen to the figures that were mentioned by Representative Adams, there is a glut taking place out there by the utilities. I think your ratepayers back home don't want this to happen. They are looking at their bills and looking at what they are paying today.

This is a chance for this legislature to do something for the people back home. We haven't done much of that this year. I think the outcry of the people out there is that we start doing something, in answer to your question, but I think others can answer a little bit better than I did. But, I think we can do something here today to relieve a problem that is taking place out there. I hope when you do vote, you put your differences aside and vote for your constituents back home.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: Cogeneration costs right now are passed through in the fuel adjustment costs, one for one. It is automatically passed through. So, to answer your question, ratepayers are already paying for it in the fuel adjustment clause. That is part of why this is an outdated mechanism because there is

no volatility in those cogeneration contracts as there was with the price of oil. Those cogeneration costs are fixed costs. The risk in those contracts is on the folks who are doing the cogeneration, not on the utilities who have entered into those contracts. So, to answer your question, and I hope I have done that, the ratepayers are currently absorbing those costs through this pass-through. What we on the committee that support this legislation believe is that allowing the PUC this discretion will allow them to encourage the utilities to continue in the undertaking, which some of them are in the midst of, of renegotiating what many people believe were expensive contracts in order to reduce some of those costs. I hope I have answered your question.

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

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I believe Representative Cameron's question went to rate of return and the effect — this would not affect the rate of return for those cogeneration plants. The rate of return isn't regulated by them, they are wholesale generators.

Back to the bill in front of us and its effects on our constituents, there is honest disagreement here because there is an honest fear. I supported this bill and I thought that members on the committee supported it for the right reasons. After we got out of committee, more information came forward, as that happens with many things.

I think a very simple request was made for us to hold this over until next year until we can fully explore that, dispel that potential of damaging bond ratings. I know a lot of people say that that is not important. When we get into the budget and we start talking about the state's bond rating for the different gimmicks that may be offered in the budget, we will see the significance of bonding out and the cost to the taxpayers will be a big issue. I think when we go to the utility rates, it is certainly a big issue for our ratepayers to be paying those higher costs as well. I think it is certainly significant for us to talk about that here today.

I think what we have to make clear right now is that it was the Utilities Committee, which I serve on and proudly serve on, that decided that the Governor said he had some problems and he would veto it if we didn't have this discussion. It was the Utilities Committee that decided they would rather run with the veto today than wait until next year and see what we could do. So, the two year delay does not lay firmly on the Governor's back. I think there are some serious flaws and some serious questions that haven't been answered in this bill. I would have voted to keep this bill going but I think the Governor has pointed out some very serious flaws and problems with this bill. I think that we would be foolhardy to pass this today. I hope you will vote to sustain.

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

Representative KONTOS: Mr. Speaker, Men and Women of the House: With all due respect to the Representative from Presque Isle, if you notice on this bill, it is dated March 8th, it was printed in March. If our Chief Executive doesn't have time in two months to assign staff to analyze this thoroughly and work with the committee when we were debating it

and then come in at the eleventh hour and ask us to reconsider it for what many of us thought were fairly insignificant reasons, we could not find the support that he seemed to think was out there to ask us to reconsider this issue.

The argument you just heard from the Representative from Presque Isle seems to me to be a weak one and, if that is what you are going to base your vote on, I submit that there are plenty of other reasons why you can reconsider this bill that probably haven't been mentioned. I urge you to vote in favor of overriding the veto.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I promise to be brief. I just want to address a couple of points that were brought up from my good friend from Presque Isle, Representative Donnelly. The first thing that was mentioned was that some of us don't think the bond rating of the Utilities is important — I would say, as one member that was on the Majority Report, I certainly think that the bond ratings are important but what I found and the reasons that I didn't think that was compelling was because there was never any actual proof. A magazine article from 1991 is not going to compel me to change a vote on a good bill.

The second thing is the Governor asking us to hold over the bill so that the PUC could review it. I will remind you that the PUC drafted this bill. I don't think they really need to review it after it came out of committee.

Third, I would ask that with an 11 to 2 report, I would hope in the future that people wouldn't let the Governor change their vote when we are trying to make a final decision.

I would urge you to vote to override this veto.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: My friend, the Representative from Presque Isle, Representative Donnelly, has stated well, I think, the principal reasons why he felt a need to rise in support of the Governor's veto.

I would point out to you that it still remains merely a choice of whether you want to be on the train or under the train. The urgency that comes with this bill is well represented on a small piece of paper, if you are among the 497,000 customers of the Central Maine Power Company, that was put into your bills just this month. Chances are, most of you threw it away. That's too bad, because on it, it will tell you why exactly this kind of a bill is important to have in the pockets of the Public Utilities Commission. It states that as of July 1, 1993, 15 days from now thereabouts, that Central Maine Power Company has requested to start increasing its revenues, meaning what they charge you and I, by \$40 million or about 5 percent beginning on the 1st of July. The request "covers expenditures already made for fuel purchases" — the fuel clause, exactly what we are speaking about now.

Secondly, despite this rate increase which is already in the mill, another one is already in line for \$90 million from the Central Maine Power Company, which may be adjudicated before the end of the year. These are coming, these are happening whether you and I like them or not. We have no ability to slow down those costs without a law like this.

I realize, again, that overrides take upon a

certain partisan overtone, that the original argument of the bill does not. I realize, friends on both sides of the aisle, that that presents a difficulty in your thinking about things but you don't have to understand much about setting electric rates to know everything about paying your electric bills. It is a very simple thing, that bill, your wallet. Our choice today is whether you want to be on the train or under it as we have been for so long.

I would urge you, please, to consider overriding the Governor's veto and I thank you for your time.

After reconsideration, the House proceeded to vote on the question, "Shall this bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

ROLL CALL NO. 204V

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

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Bennett, Birney, Bruno, Carleton, Clukey, Coffman, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Heino, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Morrison, Murphy, Nickerson, Norton, Ott, Pendexter, Pendleton, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Barth, Beam, Campbell, Caron, Carr, Clement, Constantine, DiPietro, Hillock, Ketterer, Lipman, Mitchell, J.; Plourde, Poulin, Swazey, Vigue.
Yes, 81; No, 54; Absent, 16; Paired, 0; Excused, 0.

81 having voted in the affirmative and 54 in the negative with 16 being absent, the veto was sustained.

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 11, 1993

To the Honorable Members of the 116th Legislature:

I am returning, without my signature or approval, L.D. 473, "An Act to Prevent the State from Discharging People from State Institutions without Adequate Provision for Alternative Services."

I am persuaded to take this action because the Attorney General's office has advised me that this legislation would be unconstitutional. The bill provides that the Department of Mental Health and Mental Retardation may not discharge a patient from a state mental health or mental retardation facility unless the patient has received a discharge plan listing all necessary community support services. This means that a patient's discharge could be delayed because of the absence of a discharge plan. While I applaud the Department's strong efforts to plan for an appropriate transition from institutional care to a community care system, I cannot support this bill that could hold an individual in an institution against that individual's will.

In O'Connor v. Donaldson, 422 U.S. 563 (1975), the U.S. Supreme Court established the constitutional standard that an institution must discharge a person with mental illness if the conditions justifying involuntary commitment are no longer present. The Department of Mental Health and Mental Retardation is committed to improving community-based care for persons with mental illness or mental retardation. The Department currently provides discharge planning and support to those patients being discharged from state institutions who desire it; however, such discharge planning cannot be a condition of release as contemplated in L.D. 473.

Because this bill is constitutionally impermissible and because it is poor public policy, I urge you to join me in rejecting this legislation, and to support my veto.

Sincerely,

S/John R. McKernan, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Prevent the State from Discharging People from State Institutions without Adequate Provision for Alternative Services" (EMERGENCY) (H.P. 370) (L.D. 473).

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

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House: I was amazed and appalled to learn that this legislation was vetoed by the Governor on alleged constitutional grounds. I was further amazed and appalled to learn that the Attorney General of the State of Maine has supported that veto on alleged constitutional grounds.

The reason for my reaction is quite simple — this bill, as originally drafted, which deals with the discharge of individual's from mental institutions, was very broad and it did raise (in committee, the Human Resources Committee) constitutional questions, which can be debated back and forth but I recognize and accept that constitutional questions were raised. Because those constitutional questions were raised, the Human Resources Committee dealt with them by amendment, an amended version of this bill.

What that means, ladies and gentlemen, is that the constitutional issue which is raised by the Governor and supported by the Attorney General in

this veto message has already been dealt with, therefore, the argument here is specious. It has no relationship whatsoever to the bill as amended.

Let me explain briefly what is going on here because the only interpretation I can give, and it's not really incumbent upon me to explain the mistakes of those officers, but the only interpretation I can give is that they are vetoing another bill. If in fact they looked at the amendment, they neglected to place that amendment as they should within the context of statute because if they had done either of those things, there is no necessity whatsoever for this particular veto message.

The committee was concerned, as I said earlier, that nothing, nothing in this bill could be interpreted in any way whatsoever to block patients from leaving institutions if they so desire to leave. That is why the bill was amended to make the discharge plan and that is the section of the original bill that is dealt with here, ladies and gentlemen, the discharge plan. The bill was amended to make that discharge plan a right to be exercised by the patient. The first line of Section 3803 in the statute, which is placed under Rights: "A patient in a hospital or residential care facility under this subchapter has the following rights" — by placing the discharge language in Section 3803, it becomes a "right" for the patient to exercise, not an obstacle to that patient's voluntary discharge from AMHI, for example.

This bill as amended, therefore, merely codifies the existing practice of the department to provide discharge planning to patient's leaving institutions. That's it, ladies and gentlemen, that's what the amended bill does.

As I mentioned at the beginning I was amazed and appalled, and it takes a lot here to amaze and appall me, but this did it to find out about this particular veto. I couldn't believe that it was being questioned on constitutional grounds which already had been addressed.

I stated my concern to the Attorney General and I must share with this body that, once the Attorney General was apprised of that concern and once they checked it out, now his office has a very big concern with this veto message as drafted. It is my understanding they have shared that concern with the Office of the Governor. Frankly, this is a bad veto message, it is badly drafted, it deals with something which doesn't exist and, therefore, richly deserves, if ever a veto message deserved it, to be overridden.

Now, I do request from the Speaker, I don't know if I even have to ask this, I would like to speak a second time on this but I would like to allow at this point other individuals who wish to address this to speak to this motion. I haven't made a motion but I intend to make one later, so is that acceptable?

The SPEAKER: The Chair would answer in the affirmative.

Representative LEMKE: Thank you very much.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: I would encourage you to vote for the override on this piece of legislation. As the Representative from Westbrook, Representative Lemke, has stated, the committee worked a long time on this bill. We had the same exact concerns that are expressed in the veto message with the original bill and I think every member of this committee would

concur that this amendment is a far cry from what the original bill said.

I really have to say that the veto message was somewhat mystifying to me. If you look at your amendment, which probably no one has anymore on their desks, it is a very short amendment, it just says that the discharge plan is part of what the individual can get and it simply says that "the patient must receive a discharge plan that lists all of the services the patient needs to enjoy full integration into the community of that person's choice, including but not limited to the following: housing and related support, crisis intervention and resolutions, treatment necessary to the patient's health and safety and case management or community services." This applies to both Pineland and to AMHI and BMHI.

It does not require full funding and provision of all those services before the individual leaves an institution, although the committee wanted to do that, but with the current budget crisis and the proposed budgets that are either before the Appropriations Committee right now or is initially proposed by the Governor, do not provide for an adequate level of funding that would ensure that these services could in fact be provided to persons leaving institutions. So, we didn't put that on, not wanting to have a \$10 million fiscal note on this bill. However, we felt as a committee that it still remained to be a good thing to do, to at least tell a person before they leave that this is a constellation of services that you should have in the community. At a minimum, that was something that someone could try to convince others to provide funding for etcetera. This does not cause the same kind of legal issues that were in the original bill. The involuntary commitment provision were what was raised in that initial legal question — the committee amendment in fact addresses that particular concern by setting up a little study and having the department report back to us on involuntary commitment laws and whether there are some issues around that that we might want to address in the future. It is a very simple bill and I really think that perhaps there was some misunderstanding of what it intended to do and what in fact it actually says in the context of the larger legislation. I would encourage you to support Representative Lemke's approach here and vote for override of the veto.

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

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important for everyone to note that the committee worked very hard on this bill, together. We did have a lot of questions about constitutional problems and one thing or another. Another problem that I had, and bothers me still, is the fact that if a patient has a discharge plan and we are not able to fulfill that discharge plan, what is going to happen to that patient? Will that patient, indeed, be kept in the facility? We really are not sure. Although we have got varying opinions, we are not really not positive that that could happen.

The other question that I asked during our deliberations, and it still bothers me, it is just one of those nagging things, that if we are not able to fulfill that discharge plan and the person is sent out into the community and does not have the proper

parts to that discharge plan, is the state liable? Indeed, that is a question and the answer during our deliberations and some of the public hearings was that any advocate that is worth their salt certainly would hold the state liable if we cannot fulfill the discharge plans that we provided for this patient. So, I would ask with a heavy heart that you will sustain this veto and hope that we can address some of these problems at a later date and get this situation corrected and taken care of.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Ladies and Gentlemen of the House: In response to the Representative from Scarborough's concerns, I think those concerns are very real in the initial draft of the bill. Just to reenforce the Representative from Westbrook's remarks earlier, all this very small bill does is codify the existing practices. Existing practice should be, as testimony before the Human Resources Committee indicated, that Pineland, Bangor Mental Health and Augusta Mental Health's staff do discharge planning when people leave their institutions. This simply puts this into law, this is an option for people leaving the institution, this in no way makes the state financially liable for providing those services for persons leaving the institution. It simply codifies the existence of a discharge plan.

Again, this is a very small bill. I was as surprised as Representative Lemke was at the Attorney General's opinion and I have had a separate conversation with the Attorney General's Office and the Attorney General in regard to this bill and had a similar conversation, as did the Representative from Westbrook, that there is I think a new opinion coming down from the Attorney General's Office, so I would ask you to support the override of the veto.

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

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House: I want to share with the House, and I wanted to wait until there was some debate on the floor on this bill, a communication I have had with the Attorney General's Office. I want to be fair in this but I think it is fair to characterize that they are embarrassed by the posture they are in at this point on this veto message. They have communicated to me that they would like an opportunity to deal with or rectify this veto message.

Frankly Mr. Speaker, on a parliamentary ground, I don't know how anybody does that at this point in the process but they have indicated a willingness or a great desire to do that and come up with information or opinion or whatever and they have suggested that this issue, the consideration of it, be tabled. Frankly, I don't feel like I am in the posture or have the desire to table this piece of bad veto message, if you call it that, but I would put out to the House that if anybody had a desire to table this message for later consideration, I would accept that. Frankly, I just think this thing should be voted down. I think the reasons are very clear and if as a courtesy anybody wants to give the Attorney General's Office more time to deal with this, I would be open to that as well if anybody desires to make such a motion.

The SPEAKER: According to House Rule 1, the Chair would advise members that the same remarks made

by the Representative from Westbrook, Representative Lemke, have been conveyed to the Chair. It is, however, not possible for a veto to be recalled even though it might be in error. The only thing that can be done is for a new piece of legislation, perhaps even identical, to be introduced by the Governor to correct his or her mistakes or the mistake of whomever in the Attorney General's Office.

The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: There have been several suggestions about the contact between the Attorney General's Office and the Administration. I have spoken with the Administration this morning about the matter. There may be a willingness of the part of the Attorney General to be politically accommodating; however, the Attorney's General Representative to the Department of Mental Health has not yet given that person's okay or blessing to this piece of legislation to the Administration. So, I think there is a little bit of discrepancy about what the Administration has been given in terms of an okay. I understand that the Attorney General was personally approached by a number of legislators last night and certainly as you could expect showed a willingness to work on the issue, but beyond that point, there is not a blessing of this piece of legislation, there still remains a Constitutional concern, there still remains the concerns about the impact of this legislation on matters of funding (in particular) that is before this legislature. So, I urge you to sustain the Governor's veto.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: The state is currently under one Consent Decree which clearly outlines the intentions of this bill of a discharge plan that services need to be and have to be available alternatively outside the institution for individuals to be placed in a community.

This bill, as amended by the Committee, clearly puts into law what we should be doing anyway based upon the Consent Decree entered into with this state and the federal government and the courts. I find it very ironic that a Consent Decree entered into in good faith suddenly is put aside because this particular piece of legislation makes that planning and that discharge unconstitutional. We have been under Consent Decree on the Pineland issue since the mid-1970's and we have had to develop discharge plans to each and every person to make sure housing, services and programs were available when they went into the community. This codifies that to make sure that this state, this Administration, this legislature, follows through on the commitment of the Pineland Consent Decree and the AMHI Consent Decree. To argue that the issue is unconstitutional now seems to fly in the face of that court order.

This House voted 104 to 0 to say that this was the right of those individuals with disabilities and mental illness to have. The other chamber voted 30 to 0 to guarantee the right of Maine's developmentally disabled people and those with mental illness to have the right to have services available to them, once they left the state institution. To argue a constitutional issue, to me, is a flawed argument and has no bearing at all. We are under a Consent Decree, a court order, to do this and I would

ask you all to stay with your vote, unanimous committee report, unanimous vote of the legislature as a whole, and override this veto.

After reconsideration, the House proceeded to vote on the question, "Shall this bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution, a two-thirds vote of the members present and voting being necessary, a roll call was taken.

ROLL CALL NO. 205V

YEA - Adams, Ahearne, Aliberti, Bowers, Brennan, Bruno, Cameron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Cloutier, Coles, Cote, Daggett, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lord, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlman, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Spear, Stevens, K.; Strout, Sullivan, Tardy, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Bennett, Birney, Campbell, Carleton, Carr, Clukey, Coffman, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Greenlaw, Heino, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Look, MacBride, Marsh, Marshall, Nickerson, Norton, Ott, Pendexter, Pendleton, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Stevens, A.; Taylor, Thompson, True, Tufts, Whitcomb, Young, Zirkilton.

ABSENT - Barth, Beam, Caron, Clement, Constantine, DiPietro, Hillock, Lipman, Mitchell, J.; Plourde, Poulin, Swazey, Vigue.

Yes, 88; No, 50; Absent, 13; Paired, 0; Excused, 0.

88 having voted in the affirmative and 50 in the negative with 13 being absent, the veto was sustained.

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

ENACTOR

Later Today Assigned

An Act Imposing Term Limits on Legislative Leadership Positions (H.P. 546) (L.D. 742) (C. "A" H-364)

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

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

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

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

JOINT ORDER - Relative to Extending First Regular Session of the 116th Legislature (S.P. 537)

- In Senate, read and passed.

- In House, read.

PENDING - Passage in concurrence.

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

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: I would like in the discussion of the Order in front of us to present the view as I saw the events unfolding on this particular item last night so this body could at least understand the hesitation with which this legislator and other Republican legislators approached the subject and then decided how to proceed on this matter.

It came to our attention as we sat here in the middle of the debate last night that the other body had in fact passed an Order to extend the session. When we addressed that subject to the Speaker pro tem, he indicated to us that, yes, they had taken some action and that we ought to go back to the Republican caucus and discuss with the caucus our views on the subject of extending the session, which we did. The discussion went on for what was likely a good part of an hour on the subject matter of extending the session.

Part of the concern that came out of our caucus in terms of automatically extending the session is the concern that there is in this legislature a seemingly unwillingness to finally make some difficult decisions on budgetary matters. I realize that all those reasons are not the fault of this legislature or any political party but issues that have been brought to us, frankly, as recently as today or the weekend. It was the feeling that came out of our caucus that there should be an adjournment to a date certain in order to, again, place before this legislature a deadline. Even given the scenario that the presiding officer has just laid in front of us, that a budget he described as a zero-based budget or a budget without continuation of the temporary tax issue, come before this body and not receive 101 votes and another matter should come before this body that that in fact could occur and there might also need to be another budget come before this body, a budget that contained, let's say, \$300 million in taxes. Maybe in fact it's highly likely that that budget will not pass. So, it was felt in the discussion in our caucus that putting a deadline on the adjournment Order forced members of either political party to grapple with the issue, to decide if there is not consensus to bring the matter to the bodies, take the votes, up or down, and then proceed.

I don't think the difference of opinion about the process is great. The differing opinion that came

out of our caucus was a method of procedure. It was the firm conviction, the firm opinion expressed in our caucus, that we did not want to pass an adjournment Order, which this Order I believe would allow us to proceed, until the final days of this month without having dealt in the serious matter of the budget. By that time, the only deadline confronting us would be the deadline of the fiscal year. None of us, none of us on either side of the political aisle, feel that that is a healthy exercise by pitting ourselves against each other philosophically on the issues of spending taxes and our deep concerns about many items in this budget in the final days of the fiscal year by putting undue pressures on many of the people to be impacted. So that was the reasoning that came out of the Republican caucus and the reason championed by the Representative from Corinth to move the adjournment date until a week from tomorrow and give the legislature, as a whole, another deadline that forced our good people in Appropriations to act and attempted to make this legislature deal with the issues, whoever they are going to be dealt with.

Obviously as it got to be ten minutes to nine last night, we were at the rostrum trying to decide how we should proceed, I did speak with the Representative from Eagle Lake via his phone as he was coming in and he encouraged me to talk to the Senate President, which I did (I do use this phone for purposes to benefit the body occasionally) but I can tell you that in that conversation between the two gentlemen that are presiding officers that there was a difference of opinion as to how we would proceed. There was a difference of opinion as to the number of days that we would in fact bring the members of the legislature back. So, there was some doubt in my mind as to whether there was a plan to definitely adjourn or have the legislature push for adjournment by a week from Friday as the presiding officer has indicated. That was the reasoning behind the initiative that came out of our caucus to have a definite adjournment date.

I am going to make a leap of faith and held to the criticism of my caucus because I think that is going to be necessary in the next few days. We have heard the presiding officer commit to having this adjournment date extend not beyond a week from Friday and if it is necessary for this legislature to continue, then we again face an adjournment Order and decide at that time, hopefully a few minutes before that time, whether it is appropriate to again extend the legislature. By that time, the final five days will be beyond the fiscal year.

So, it is with this kind of commitment that I have heard from the presiding officer that I will urge adoption of this Order and we will see.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Yesterday during the day, I did have an opportunity to communicate with the good Representatives, Representative Whitcomb and Representative Zirnkilton, about the process that we would take in terms of extending or not. Earlier in the day, many, many hours before nine o'clock, I encouraged them to talk to their caucus members to get a sense for their feelings. We brought the issue to our caucus as well.

I have to be honest with you, we did not spend an

hour dealing with it in our caucus, I would be surprised if we spent five minutes dealing with it, but the overwhelming consideration of our caucus was, indeed, that we had to do the business of the people and we had to extend and take the time necessary to do the work of the people that we were sent here to accomplish.

We had a new process this year in terms of how we have considered the budget, it hasn't been perfect, it hasn't been without its faults, we will want to get together and review it and try to find a way to improve upon it for the next biennial process, but we have had a process that has allowed us to get committees involved that have never been involved before and I think that bodes well for the future as to where we are going in the state. For those who have a serious concern about this institution and raising the credibility of this institution, I think that process is going to help us to do that because the recommendations that were made to the Appropriations Committee by the various committees of jurisdiction were, for the most part, unanimous. They were well crafted, they were well thought out and now, of course, we have gone through a gut-wrenching, very difficult prioritization of good recommendations from each committee because we do not have the types of monies that we would like to have. It has been a tremendous process. I think, even now with Appropriations, they have cut some \$531 million from where we originally started. There are some 11 states that have currently extended in this nation to provide more time to consider their budget negotiations. Of those 11 states, there is not one that was in a worse condition than the State of Maine having a billion dollar shortfall out of a \$3.1 billion budget.

If you tell people back home what it is like, they can't even imagine it, because the numbers are so huge. When you start talking about a third of your budget from current services you need to reduce, it is absolutely dramatic. It has taken some time, more time than perhaps we had planned but I am not sure that any new process is without its faults. Certainly trying to establish a new process for the budget when you are down a billion dollars is even that much more complicated.

The reality is, if we choose not to extend this legislative session, every bill in front of us dies, every bill on the Table dies. We have no budget and the reality is that we will be called back in to Special Session to complete our work. If we are called back into Special Session, we will do so at a per diem of \$100 a day because that is what the Constitution and the statutes require. I don't think there is a person in this chamber who would advocate the necessity to be called back into Special Session by the Governor and being paid that type of money when in fact the most appropriate, the most prudent course of action for us to take now is to extend to allow ourselves the necessary time to complete the work that is in front of us. All the bills will be killed if we do not take action. The budget will be killed and we all know that we will have to come back for this purpose.

I disagree that it is appropriate to put an ending date to a five day limit. The statutes clearly say that we can adjourn for five legislative days and we will utilize those days judiciously as we possibly can but sometimes there are uncertainties that we can't predict. We know that the original

budget of the Governor that was in Appropriations, which is very thick, took two and a half days just to draft. It will take another two days just to print. If there are two or three versions to come out of Appropriations, it is very difficult for us to control that while we are up here waiting for the Revisor's Office and the printing to take place.

I think it is important to demonstrate some faith between Democrats and Republicans, between the Administration and legislature, as to how we want to proceed in this matter.

The issue of timing is no more evident than the proposal that we had just last week with retirement. The Administration, in an attempt to find an alternative for the waivers which are now not going to be available, has brought to us a whole new concept in ways to achieve savings in the State Retirement System. It is very controversial, very complicated. We had a hearing on Sunday with very serious concerns about employees throughout the state and rightfully so. I am not sure that it is appropriate to put an artificial time line on how long it should take us to make a decision to make those types of cuts in pension plans for employees in this state. I'm not sure that is fair and I don't think the members here think that is fair. We are working together and I have been tremendously impressed by the attitude of cooperation and mutual trust that we have seen so far this year. I think we need to continue it, I don't think we need to get hung up on adjournment date, whether it is three, four or five days, I think we ought to reach across this aisle, that sometimes goes down the middle and seems wider than not, and continue to work in good faith towards a solution.

We have, ladies and gentlemen, a constitutional responsibility to do the business of the people and I would hate to think that we didn't accomplish that because of a disagreement over a day here or there. It is important but I, for one, will commit to move as quickly as possible and I believe every single person in this chamber wants to avoid the prospect of a shutdown. I don't think it is even remotely necessary that we discuss those types of things because I think that Appropriations is far enough along, they've got enough good information from the committees that we can begin to move and make those tough choices. I am willing to bet on the Democrats and Republicans, members of this body, that they are willing to take that responsibility seriously and get the work of the people done. I hope that you will endorse and support the motion to extend the session.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: Today after hearing the remarks from the presiding officer and the two leaders, I can tell you that I have no problem with the extension of the five days. My concern last night was that, at the eleventh hour at five minutes to nine, I felt that we didn't have the two Orders before us so that we could review it and make a wise judgment in my opinion. I felt that we needed time to review this and look at it and that is why I made the motion last night. I feel today in my heart that I did the right thing. We were all tired, we had been here for a long day yesterday and to put before us at nine o'clock the extension Order and the Order that gave the presiding officers the right to call us back, I felt uncomfortable with it. Today, I repeat, after

hearing what the two leaders have said, I would urge you to vote for the extension of the five days with their commitment.

I agree with the Majority Leader that we will cooperate and get our job done, but I have got to go back and tell you that last night I was concerned, I really felt that we should set a time certain. I, as one legislator, still believe that that can be done. I believe if Appropriations feel in the next few days they can get a budget to us that, when we come back in two days, we can take it up and I hope that we can. If we come back Thursday and we can take care of it by Friday night, fine. If we can't take care of it by Friday night and we have to come back next week, that's fine too.

I will tell you, if we can't do it with this process by next Friday night, a week from Friday night, we have got to do the job before the year ends and I again repeat that I would urge all of you to support the extension.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief but there were some points in the earlier discussion, and where I did vote green last night for adjournment, I think I have to explain my reasons to the body.

As a rank and file member, I find that the budgets that have been coming out and what we are hearing about the budget, I was extremely uncomfortable yesterday on just going home whenever but when the rank and file did go home, it was interesting what can happen around here.

Also, I understand the printing time we need simply in the printing and drafting if we are going to be looking at multiple budgets but everyone in here, whether they be leadership, whether they be rank and file, has a vote that is going to carry this state through the next two years. On my vote, I want to know when I make that vote, what that effect is. I think leadership's position in this is an appropriate one, probably not the one I agree with, I would like to be going home forever tomorrow, but when we had a \$150 million deficit dumped on us seven days ago and were expected to act appropriately but I think we need the time to act that way, whether we be conservatives, whether we be liberals or whether we be somewhere in the middle, just to explain to the folks back home what we are doing.

I have been here over the last six months with you and I have not been idle. I found it interesting that some of the comments earlier were that we were sitting here waiting for adjournment date so we could vote to extend, I didn't get that from many people on my committee, I found us under a time limit trying to do the right thing at all times, whether it be committee work or whether it be dealing with this budget.

I hope you will vote for the passage of this so that we can do the work of the people. On the note from the Majority Leader when he said that, maybe it's my labor roots, but I don't have a problem either with being paid for being here. I guess that probably makes me the one person in the body, Representative Gwadosky, who doesn't have a problem with that if that's the way we want to go.

I realize it is less expensive if we vote to extend but if this is blocked, it won't bother me to get paid for being here.

The SPEAKER: The pending question before the

House is passage of Joint Order S.P. 537, a two-thirds vote being necessary. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

116 having voted in the affirmative and 2 in the negative, Joint Order S.P. 537 was passed in concurrence.

The Chair laid before the House the following matter: Joint Order: (S.P. 536) ORDERED, the House concurring, that when the House and Senate adjourn, they do so to the call of the President of the Senate and the Speaker of the House when there is need to conduct legislative business (came from the Senate, read and passed) which was tabled earlier in the day and later today assigned pending passage in concurrence.

Subsequently, Joint Order (S.P. 536) was passed in concurrence.

The Chair laid before the House the second item of Unfinished Business: Resolve, Directing Release of Investigative Records Related to Ballot Tampering (EMERGENCY) (H.P. 1003) (L.D. 1349) (C. "A" H-657) pending final passage.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: Before we take this vote, I want to go on Record opposing this bill. I am extremely uncomfortable with what we are about to do.

What this bill will do is make public the records of what many people gave as confidential information in an investigation by the Attorney General's Office. It will take away that confidentiality retroactively. In other words, those who were interviewed by detectives about six months ago and were told their information would be kept confidential are now having that promise violated. I feel extremely concerned about the precedent that we are setting by passing this bill.

It has a unanimous committee report and I know that I could never get the necessary votes to defeat this measure so I am doing the next best thing by going on Record opposing it.

Last Thursday when the amendment came out, I started asking questions and became a bit more uncomfortable with every question I asked. On Friday, I called the Dean of the University of Maine Law School, two professors from the Law School, and several attorneys. They felt that my questions were too technical and it would require much research and certainly nothing that they felt comfortable with responding to before we adjourn this month.

I would like to get some of these questions on Record and would hope that this bill would be brought back to committee until these questions can be answered. However, with a unanimous report, I feel certain that this will not return to committee, so I would ask the next best thing to occur and that would be that the Attorney General be sure that all of these questions be answered before he acts on this Resolve, especially where he told me he preferred not to have to make these records public for fear of the

chilling effect this action would have on his future investigations.

I think the following questions need to be raised and answered by outside counsel and I would suggest that the Law School would be an appropriate impartial group. If I may put on Record several questions that I would like them to consider. May the legislature pass a special law, in effect abrogating for a particular instance the protections or commands of a particular statute? Is there not a constitutional issue of separation of powers presented by the legislative directives to the Attorney General? Does not the Attorney General now have the authority to make appropriate decisions concerning Section 200d or does he in fact have the ability to waive that statute or any of its protections?

If the Attorney General has promised confidentiality to certain interviewees, what is the consequence of his releasing this information? Do the actions of the legislature constitute an unwarranted violation and invasion of people's privacy or violation of their civil rights, either under state or federal law in the instance where those persons have reserved their right for confidentiality or been promised rights of confidentiality? May the statute have a retrospective effect? Is there a violation of the Maine Criminal History Information Act? Does the recent legislative recodification of confidentiality provisions that were expressed in L.D. 240 and its amendment indicate any legislative directive of the results here?

Should attorneys be charged with reviewing the dicta in the case of *Dunn & Thibeault Inc. vs. Cohen*, May 1979 for the applicability of that case to these particulars? Is the federal law regulating the confidentiality of files of the United States Attorney's Office violated by releasing this material?

In the event that a witness gave a statement that involved attorney/client privileged information and specifically waived that privilege for a confidential statement, does that waiver also apply to the subsequent public release?

If a witness gave testimony in expressed reliance on confidentiality of that testimony, may the state, either through the Attorney General or by legislation, set aside that confidentiality and does that breach of that promise give rise to damages or does this *ex post facto* change violate constitutionally protected rights?

Without enactment of a bill overruling the confidentiality provisions of Section 200d, may the Attorney General release any of the investigatory files in this matter?

Some of my fears and concerns also include these items regarding future drug investigations — will the informants be as willing to give confidential information if they know that the legislature could rescind that confidentiality at a later date? What if we were to deal with an AIDS epidemic, would we then make test results public to public outcry?

When there is public outrage because of a sheriff or policeman killing a criminal in self-defense, will we always respond with a knee-jerk reaction to satisfy the press or angry public by making those investigations public? Will we want to open the Janet Mills and Donny Sproul cases by negating the confidentiality of those investigations?

Throughout this whole affair, I found the reaction of the press to this call for releasing

confidential testimony to be hypocritical in light of the constitutional protection they enjoyed in regard to protecting their sources. If any group should be sensitive to the need to protect the confidentiality of sources of information in an investigation, it should be the press.

I am wondering if this bill is simply inviting a lawsuit against the State of Maine by people whose confidentiality will be violated by passage of this law. Knowing that this is inevitable, should a fiscal note not have been attached to this bill?

I want to make clear that this bill has nothing to do with my own recount and my own testimony before the Attorney General's Office. While I did provide testimony to that office in matters unrelated to this legislation, anyone is welcome to see a copy of the transcript of my testimony, I have it available to them, but I am simply concerned about the testimony of others whose rights are being violated by this bill.

Thank you for the being patient with me in hearing my heartfelt concerns about this legislation.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: If for no other reason than the length of the list of questions that were just read, it would seem to me appropriate to just give you a brief explanation of what this bill is now in terms of how it was reviewed by the committee.

First of all, it does authorize and direct the Attorney General to make available for review by members of the legislature and the public all investigative records except for subpoenaed telephone records and information that could reasonably be expected to constitute an unwarranted invasion of personal privacy related to ballot tampering that occurred during the electoral recounts in House Districts 35 and 38 following the 1992 legislative elections.

The bill as amended by the committee would keep confidential, names, addresses, occupational positions or any other information that would disclose the identity of persons other than the Speaker of the House, the Majority Leader of the House, candidates involved in ballot recounts, persons who have pleaded guilty to crimes related to ballot tampering, attorneys for any of the foregoing and members of the Attorney General or Secretary of State's Offices — sorry, I think I have read this backwards — all of that list has to be deleted before their public disclosure. I am sorry, everybody but that list is to be deleted. If there is any question about that, I would be glad to go through it again.

I think the gist is that the known people whose identities are known and the people who have already been in the papers, their names are not to be deleted, but otherwise in general, people's names will not be disclosed in this process.

It does authorize the Attorney General to contact these persons whose names would otherwise be deleted and allow information about them to remain on the record if they so desire. These records are to be made available for public inspection under the provisions contained in Title 1, section 408 that are applicable to public records except the Attorney General has 30 working days before any deletions requested by this section of the law.

The committee made a finding in agreeing to this report that there is exceptional and unique public interest in the disclosure of these records that outweighs the interest of confidentiality. This, basically, addresses the issue in some of the questions raised by Representative Melendy. Right at the moment, there is a statute which provides that the records of the Attorney General's Office are confidential. There is also, as I just referred to, a statute which provides for public access to government records and it is a fact that we have two potentially conflicting interests expressed in our statutes today that there is some basis to say that the Attorney General might have authority now to disclose these but the Attorney General, I think, is being quite prudent in saying that his own conclusion was that he would not disclose them because the statutes that he operates under thwartyly says not to disclose these records.

Our business as a legislature clearly is to pass legislation and it was our conclusion as a committee that we do have the authority to address this situation. We have the authority to address this conflict in the laws and we have the authority to open these records. Our concern was, as many of the questions referred to by Representative Melendy, about the fact that people had been promised confidentiality about the precedential effect of this and we felt that by putting in reference to what is an established standard in federal law about unwarranted invasion of personal privacy, that people whose had concerns about their own privacy, can in fact under this go to court and ask a judge to make that determination. So, many of the questions raised by Representative Melendy, I believe, are addressed by that provision which is added in the last work session of the Judiciary Committee, particularly because of some of those kinds of questions.

I do join the rest of the committee in believing that this is an exceptional, very unfortunate, circumstance. I do not believe that this will set precedence. I think that the very nature of this and the very nature of the charges and who is involved, I hope sincerely will never, ever come before this legislature again. I cannot imagine that any of the circumstances referred to would be a basis, whether we pass this or not, for doing this kind of opening up of otherwise appropriately confidential public record. I do believe that, rather than keep the confidentiality when there is serious public concern about the integrity of not only this institution and our electoral process, but also our investigation of any wrongdoings. I will follow up with that it is much better to let people see for themselves the basis of judgment that were made about that. For that reason, I urge you to support this bill.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: This was a unanimous report out of our committee. It was a bill that we worked hard at and we consulted with the Attorney General. On several occasions, we had many attorneys on our committee, as you know, and we reviewed the impact of every line to see if we could protect the personal privacy that should be accorded to these persons and we have provided that the reports and the statements can be redacted to protect the privacy interest by redacted names, addresses, telephone numbers and any personal identifying information as well as personal

situation information that have no relationship to the investigation.

As far as setting precedence, we have quite a bit of the federal case law that addresses this and I would just like to read to you the statement from Elarez vs. the National Labor Relations Board to show that our federal courts have seen that there might be some of the questions that come up as to going into cases where we wouldn't normally go. So, the quote is, "If there is important public interest in disclosure of information and the invasion of privacy is not substantial, the private interest and protection of disclosure must yield to the superior public interest. However, if the invasion of privacy is serious and there is little or no public interest involved, the information is exempt from disclosure."

As you can see from the bill that we put forth, we found that there was public interest and public need to know. It was a unanimous report from the committee and I would appreciate your support.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I urge you as well to support the members of the Judiciary Committee in supporting this piece of legislation.

The reason I arise to speak briefly on the subject is I have, as you do, a copy of the concerns expressed by a lobbyist with a number of those concerns that were read into the Record by the Representative from Rockland. This lobbyist apparently represents some unknown clients, unknown to me anyway, who are concerned about this information being released. I appreciate that this lobbyist is paid to present that point of view. However, I think the overwhelming concern and consideration of this issue is the concern expressed by the sponsor of this piece of legislation, the Representative from Washington, and the public's right and need to know the full details of this sorry incident. So with that, I urge you to support the piece of legislation in front of you.

Mr. Speaker, when the vote is taken, I request the yeas and nays.

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

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

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

ROLL CALL NO. 206

YEA - Adams, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Beam, Bennett, Birney, Bowers, Brennan, Cameron, Campbell, Carleton, Carr, Chase, Clukey, Cote, Cross, Dexter, Donnelly, Dore, Dutremble, L.; Faircloth, Farnsworth, Farnum, Farren, Foss, Gould, R. A.; Gray, Greenlaw, Gwadosky, Heino, Hillock, Hoglund, Johnson, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kutasi, Lemke, Lemont, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michael, Murphy, Nadeau, Nash, Nickerson, Norton, Ott, Paradis, P.; Pendexter, Pendleton,

Plowman, Pouliot, Reed, G.; Reed, W.; Richardson, Robichaud, Rotondi, Rowe, Simoneau, Small, Spear, Stevens, A.; Stevens, K.; Strout, Taylor, Thompson, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, True, Tufts, Whitcomb, Winn, Young, Zirkilton.

NAY - Ahearne, Carroll, Cashman, Chonko, Clark, Cloutier, Coles, Daggett, Driscoll, Erwin, Fitzpatrick, Gamache, Gean, Hale, Hatch, Heeschen, Hichborn, Holt, Hussey, Jacques, Joseph, Kontos, Larrivee, Libby Jack, Marsh, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, O'Gara, Oliver, Pfeiffer, Pineau, Pinette, Rand, Ricker, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Sullivan, Tardy, Walker.

ABSENT - Barth, Bruno, Caron, Cathcart, Clement, Coffman, Constantine, DiPietro, Jalbert, Plourde, Poulin, Swazey, Vigue, Wentworth, The Speaker.

Yes, 89; No, 47; Absent, 15; Paired, 0; Excused, 0.

89 having voted in the affirmative and 47 in the negative with 15 being absent, the Resolve failed of final passage. Sent up for concurrence.

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

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

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)

TABLED - June 14, 1993 (Till Later Today) by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

On motion of Representative Joseph of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 1390 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, Committee Amendment "A" (H-528) was adopted.

The same Representative offered House Amendment "B" (H-668) to Committee Amendment "A" (H-528) and moved its adoption.

House Amendment "B" (H-668) to Committee Amendment "A" (H-528) was read by the Clerk.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: This is clarifying technical language that makes clear the intent of the committee as they passed the bill.

Subsequently, House Amendment "B" (H-668) to Committee Amendment "A" (H-528) was adopted.

Committee Amendment "A" (H-528) as amended by House Amendments "A" (H-593) and "B" (H-668) and Senate Amendment "A" (S-317) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-528) as amended by House Amendments "A" (H-593) and "B" (H-668) and Senate Amendment "A" (S-317) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the fourth 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 14, 1993 (Till Later Today) by Representative JOSEPH of Waterville.
 PENDING - Adoption of House Amendment "B" (H-643) to Committee Amendment "A" (H-544).

On motion of Representative Gwadlosky of Fairfield, 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 fifth item of Unfinished Business:

An Act to Reform and Reestablish the Commission on Governmental Ethics and Election Practices (S.P. 225) (L.D. 696) (C. "A" S-168)
 - In House, passed to be engrossed as amended by Committee Amendment "A" (S-168) as amended by House Amendment "A" (H-647) thereto on June 9, 1993.
 - In Senate, Senate insisted on its former action whereby the Bill was passed to be enacted in non-concurrence.
 TABLED - June 14, 1993 (Till Later Today) by Representative PARADIS of Augusta.
 PENDING - Further Consideration.

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

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

Bill "An Act to Set Voluntary Limits for Campaign Spending" (H.P. 1149) (L.D. 1549)
 - In House, passed to be engrossed on June 4, 1993.
 - In Senate, passed to be engrossed as amended by Senate Amendment "D" (S-329) and Senate Amendment "E" (S-332) in non-concurrence.
 TABLED - June 14, 1993 (Till Later Today) by Representative PARADIS of Augusta.
 PENDING - Further Consideration.

On motion of Representative Daggett of Augusta, the House voted to recede.
 Senate Amendment "D" (S-329) was read by the Clerk.

Representative Daggett of Augusta offered House Amendment "A" (H-666) to Senate Amendment "D" (S-329) and moved its adoption.
 House Amendment "A" (H-666) to Senate Amendment "D" (S-329) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.
 Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: The current policy of this bill is in and has come back with an amendment which

changes a couple of things from the way the House had passed it. One of the problems is that it has come back with an amendment that really takes away the voluntary expenditure limits.

The provision that I am amending out is the provision that, if you had accepted voluntary limits and somewhere through the process of a campaign you realized that your opponent is outspending you, you then have the option of overspending the voluntary limits so, in effect, anyone who originally accepts the voluntary limits, may later on decide not to with no penalties if their opponent outspends the voluntary cap. So, my amendment would remove that section from the other amendment.

House Amendment "A" (H-666) to Senate Amendment "D" (S-329) was adopted.

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

Representative BENNETT: Mr. Speaker, I move indefinite postponement of Senate Amendment "D" as amended by House Amendment "A."

Friends and Colleagues of the House: I do not disagree with Representative Daggett on her amendment. However, I do find Senate Amendment "D" objectionable and I find it in contravention to the discussions, debates, deliberations and decisions of the Legal Affairs Committee when we took this up last month and earlier this month.

I encourage you all to take a look at Senate Amendment "D" because I think you would see that it does in fact take whatever few remaining teeth that were left in the gums of this bill. Number one, Senate Amendment "D" makes the bill only apply to state offices of Governor, State Senator and State Representative. The committee bill had voluntary limits and, again, keep in mind that these limits are voluntary only, for not only state office holders or people seeking those positions, but also county office holders and for congressional or federal office holders or people seeking those positions.

Secondly, this bill as amended by Senate Amendment "D" would raise the limits for Governor to \$500,000 in the State Primary election and \$1 million in the State General Election. This isn't true campaign finance reform. \$1.5 million to run a gubernatorial campaign? Probably next year we are going to have in the vicinity of 10 gubernatorial candidates — that is a maximum of \$15 million if all of them accept these voluntary limits, \$15 million in campaign spending just for the gubernatorial race. I take that back — of course not everybody is going to be in the General Election but there is going to be an incredible amount of money and people are going to have to raise that kind of money and they are going to have to make the kind of connections within the business community where they could not only raise the \$500,000 but also go on and raise the \$1 million. They are going to have to make the kind of connections with labor unions, they are going to have to make the kind of connections with all the other special interests in order to raise that kind of money.

This bill really, as amended by Senate Amendment "D", is meaningless, useless. I think the public is crying out for true campaign finance reform. The voluntary limits was incorporated within the common cause bill which had a lot of merit, and I felt then when we debated it in committee and I feel now that before we look at public financing beyond voluntary spending limits, we need real and meaningful

voluntary spending limits.

This bill as amended by Senate Amendment "D" does nothing, it doesn't solve any problems and it merely confirms the status quo. So, I encourage you to indefinitely postpone this amendment.

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

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I hope you will oppose the pending motion and I would like to just speak briefly to that.

I think that it is frequently very difficult to make a jump from the status quo to something that is very, very different than what we are doing now. Perhaps ideally it would be nice to have a bill that accomplished everything under the sun but I guess realistically I don't think that's really going to happen. I would disagree with Representative Bennett in his characterizations of Senate Amendment "D" if it is amended by House Amendment "A" which is the amendment that I would like to see put on.

The committee had borrowed from Vermont legislation in creating a stick which kind of encouraged people to take the voluntary limits and that was the piece where a candidate would be penalized by not accepting voluntary limits by only being allowed to accept a hundred dollars per each source. That was the stick that we had used. Senate Amendment "D" replaces that with a disclaimer. We already have disclaimers on political advertising and the Senate Amendment displaces that with a disclaimer which would be required on political advertising that would, hopefully, make use of public opinion by requiring candidates to include whether or not they accepted the voluntary caps.

I would suggest to you that there are many, many ways to encourage people to behave in a way that we would like them to and the committee had developed one method which we borrowed from Vermont. The amendment that is in front of us that's being moved to postpone has another way — we could spend a lot of time talking about many different ways but this way is not that bad.

The issue of the voluntary cap and whether or not you accept and stick with them is the issue that the House Amendment addresses and in fact would reset voluntary caps with no opt out.

Regarding the issue of the federal candidates being included — the committee did include the federal candidates and it would be nice if sometime federal candidates are included and, hopefully, they will choose to include themselves.

I would just like to make reference to a court decision which found that a system of voluntary expenditure limits applicable to federal candidates was found to be preempted by federal law. Now, we have not gotten a specific ruling on this but I think it is definitely a very gray area and I guess at this point I think it would be a wonderful example to set if we would set voluntary spending limits for ourselves. Hopefully, the feds will see it as appropriate and can deal with it in their arena.

I urge you to defeat the pending motion and let us continue on to try to reach some kind of an agreement on this bill.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do vote to indefinitely postpone Senate Amendment "D." This

volunteer spending bill had its original roots in the first week of the session, when about 10 or 15 people put together by the Revisor's Office, because we had all individually requested a bill on voluntary limits and most of us said, draft a New Hampshire bill, a couple of us said, draft another bill. In fact, there were two separate groups, who for some reason did not even get together, so they wound up with two bills being put into the legislature and going before the Legal Affairs Committee. You know, the remarks at that time were, "Can't we make these limits mandatory?" The answer, of course, was no we can't because the courts won't allow us to make it mandatory so the rhetoric at the beginning of the year was, yes, we have to have these limits and, yes, we need to make them strong enough so they are worth something. Now, at the end of the session, I think we are looking at reality where, once again, you have to ask yourselves, what is the commitment of this legislature and what is the commitment of the other body?

This amendment renders the volunteer campaign spending bill a total joke, it is virtually worthless. If we can't stand up for something in this body, then let's not stand up for anything. If we cannot take this amendment off, I think the bill is totally worthless. I think we should consider at that time indefinitely postponing it.

I don't care what the other body does, I care what this body does. I am a member of this body, you are a member of this body, let's be proud and stand for ourselves for something worth having and let the other body worry about their problems.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Norway, Representative Bennett, that Senate Amendment "D" (S-329) be indefinitely postponed. 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.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Norway, Representative Bennett, that Senate Amendment "D" (S-329) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 207

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Bennett, Brennan, Cameron, Campbell, Clukey, Cross, Dexter, Donnelly, Dore, Dutremble, L.; Farnum, Farren, Fitzpatrick, Foss, Greenlaw, Hale, Heino, Hillock, Hussey, Joy, Kneeland, Kutasi, Lemont, Libby, James, Lindahl, Look, MacBride, Marshall, Michael, Mitchell, J.; Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plowman, Reed, G.; Reed, W.; Richardson, Robichaud, Rowe, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, Townsend, E.; Townsend, L.; True, Whitcomb, Zirkilton.

NAY - Adams, Ahearne, Aliberti, Beam, Bowers, Carroll, Cathcart, Chase, Chonko, Clark, Coles, Cote, Daggett, Driscoll, Erwin, Faircloth, Farnsworth, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hatch, Heeschen, Hichborn, Hoglund, Holt, Jacques, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lipman, Marsh, Martin, H.; Melendy, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Pouliot, Rand, Ricker, Rotondi, Rydell, Saint Onge, Saxl, Simonds, Stevens, K.; Sullivan, Swazey, Tardy, Townsend, G.; Tracy, Treat, Tufts, Walker, Wentworth, Winn, Young, The Speaker.

ABSENT - Barth, Birney, Bruno, Carleton, Caron, Carr, Cashman, Clement, Cloutier, Coffman, Constantine, DiPietro, Jalbert, Libby Jack, Lord, Plourde, Poulin, Ruhl, Skoglund, Vigue.

Yes, 59; No, 72; Absent, 20; Paired, 0; Excused, 0.

59 having voted in the affirmative and 72 in the negative with 20 being absent, the motion to indefinitely postpone Senate Amendment "D" (S-329) did not prevail.

Subsequently, Senate Amendment "D" (S-329) as amended by House Amendment "A" (H-666) thereto was adopted.

Senate Amendment "E" (S-332) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by Senate Amendment "D" (S-329) as amended by House Amendment "A" (H-666) thereto and Senate Amendment "E" (S-332) in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Transfer the Responsibility for Recounts of Elections to the Judicial Branch (S.P. 475) (L.D. 1474)

- In House, passed to be engrossed as amended by Committee Amendment "A" (S-208) and House Amendment "A" (H-594) on June 4, 1993.

- In Senate, Senate adhered to its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-208) in non-concurrence.

TABLED - June 14, 1993 (Till Later Today) by Representative PARADIS of Augusta.
PENDING - Further Consideration.

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

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

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

TABLED - June 14, 1993 (Till Later Today) by

Representative PARADIS of Augusta.
PENDING - Passage to be Enacted.

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

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

Bill "An Act to Remove the Repeal Date from the Laws Governing Equitable Insurance Coverage for Mental Illness" (EMERGENCY) (H.P. 138) (L.D. 183)

- In House, passed to be engrossed as amended by Committee Amendment "A" (H-582) as amended by House Amendment "A" (H-660) thereto on June 14, 1993.

- In 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.

TABLED - June 14, 1993 (Till Later Today) by Representative DORE of Auburn.
PENDING - Further Consideration.

On motion of Representative Pineau of Jay, retabled pending further consideration and later today assigned.

BILL HELD

Bill "An Act to Reduce the Influence of Money in Elective Politics" (H.P. 1150) (L.D. 1550)

- In Senate, Bill and accompanying papers indefinitely postponed.

- In House, House insisted on its former action whereby the Bill was passed to be engrossed as amended by House Amendments "B" (H-654) and "C" (H-658)

HELD at the Request of Representative DAGGETT of Augusta.

On motion of Representative Daggett of Augusta, the House reconsidered its action whereby the House Insisted on its former action whereby the Bill was passed to be engrossed as amended by House Amendments "B" (H-654) and "C" (H-658).

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

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

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

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the

Legislature on: Bill "An Act to Protect Private Property" (H.P. 514) (L.D. 672) have had the same under consideration and ask leave to report:

On motion of Representative Anderson of Woodland, Adjourned at 2:10 p.m. pursuant to Joint Order (S.P. 536).

That they are unable to agree.

(Signed) Representative COTE of Auburn, Representative FARNSWORTH of Hallowell, and Representative STROUT of Corinth - of the House.

Senator BERUBE of Androscoggin, Senator CIANCHETTE of Somerset, and Senator CARPENTER of York - of the Senate.

Committee of Conference Report was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Ladies and Gentlemen of the House: I would be remiss if I didn't take a few moments to thank the House Chair of this Conference Committee, who was adamantly opposed to this, for calling the meeting. This won't go away and in this case the messenger was shot, but there will be another messenger later on. Once again, thank you for your time and patience. I will not ask for a new Committee of Conference, not in this late stage of the game.

Subsequently, the Committee of Conference Report was accepted and sent up for concurrence.

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: An Act to Revise the Salaries of Certain County Officers (EMERGENCY) (MANDATE) (H.P. 1159) (L.D. 1558) have had the same under consideration and ask leave to report:

That the House recede and concur with the Senate.

(Signed) Representative JOSEPH of Waterville, Representative KERR of Old Orchard Beach, and Representative MURPHY of Berwick - of the House.

Senator BERUBE of Androscoggin, Senator BUTLAND of Cumberland, and Senator BUSTIN of Kennebec - of the Senate.

The Committee of Conference Report was read by the Clerk.

Representative Kerr of Old Orchard Beach moved that the House accept the Committee of Conference Report.

A two-thirds vote being necessary, a total was taken. 101 having voted in favor and 17 against, L.D. 1558 was passed to be enacted, signed by the Speaker and sent to the Senate.

(Off Record Remarks)
