

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 14, 1996 to April 3, 1996

SECOND CONFIRMATION SESSION

August 1, 1996

SECOND SPECIAL SESSION

House of Representatives

September 5, 1996 to September 7, 1996

Senate

September 5, 1996 to September 7, 1996

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

HOUSE ADVANCE JOURNAL AND CALENDAR
ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
SECOND SPECIAL SESSION

3rd Legislative Day

Saturday, September 7, 1996

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

Prayer by Honorable Donald A. Strout, Corinth.

The Journal of yesterday was read and approved.

ORDERS

On motion of Representative HICHBORN of Lagrange, the following Order: (H.O. 57)

ORDERED, that Representative Joseph B. Taylor of Cumberland be excused September 7 for personal reasons.

Was read and passed.

On motion of Representative JACQUES of Waterville, the House recessed until 1:30 p.m.

(After Recess)

The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Non-Concurrent Matter

An Act to Amend the Law Concerning Tax Increment Financing (S.P. 775) (L.D. 1894) (C. "A" S-603) which was passed to be enacted in the House on September 6, 1996.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-603) as amended by Senate Amendment "A" (S-608) thereto in non-concurrence.

The House voted to Recede and Concur. Ordered sent forthwith.

Under suspension of the rules, members were allowed to remove their jackets.

ENACTORS

An Act to Assist in the Retention of Maine Jobs (S.P. 775) (L.D. 1894) (S. "A" S-608 to C. "A" S-603) Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Men and Women of the House: This went under the hammer before and I expected debate. I blame myself for not jumping up then. If I read this correctly just on the simple majority here, we are going to rob the Rainy Day Fund that just a year or so ago a lot of us were saying should be protected by Constitutional amendment and maybe have a two-thirds majority to take money out of there. Just about the first thing to come along and we are robbing it with almost no debate, maybe there will be some now. I am kind of flabbergasted. This sounds like a tremendous effort here to help people retain their jobs, and that is

exemplary and tremendous but it seems to me I hope they have exhausted all possibilities of having private industry put up some money. We have to ask ourselves what is the role of government in the every day life of people? It seems to me, at first glance, that it is a tremendous opportunity for everybody, including the business, there ought to be some business money. Aside from that the Rainy Day Fund emergency is a slippery word, of course, and for people here who are losing their jobs and of course depend on it perhaps this is an emergency, but on a statewide picture I'm not sure that this would constitute an emergency. It seems to me that we shouldn't be raiding the fund for this purpose right now. Thank you.

Representative JACQUES of Waterville requested a roll call on passage to be enacted.

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 members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative LUTHER: Thank you. How does this money get paid back?

The SPEAKER: The Representative from Mexico, Representative Luther has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: As it is now there is a potential of losing around 515 jobs in the Hathaway Shirt factory. It's estimated if you average it at \$18,000 a job and at 8 percent on the state income tax, it's around \$745,000 per year that the state will continue to take in in revenue, whereas without the assistance we may not. It's a job retention bill and part of, if you want to play that out, some of those people who lose their jobs may go out and find other types of jobs, maybe at a lesser income and create less income to the state, and some people never find quality jobs of that type again. We know that this is an area of the state that is having a difficult time with jobs with the factory just having gone out of business right in this area last year. A lot of those folks are still looking for work. It's a tremendous effort put forward so the actual payback is by retaining the jobs. There is no direct repayment. Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Before we go on to enact the TIF bill I would like to take a few moments of your time. I just have a few words. I'm disappointed to say that I won't be voting for the bill to save 450 jobs in Waterville. I encourage strongly the rest of you to vote for that bill. I will not and I won't because there is a little history here. This bill was printed several days ago. It was in possession

of the leaders of both bodies, both parties, for a while. No one came to the Taxation Committee hearing on Wednesday to object to the funding mechanism for the bill, no one. The bill left the committee with a twelve-to-one report. Twelve people embraced the bill, including the funding mechanism for the bill. I consider myself honor bound to support that bill with that funding mechanism. Yesterday at the eleventh hour somebody decided to object to the funding mechanism. It is inexcusable to plead ignorance. They are too bright for that. They waited until the eleventh hour and I believe that cost us an extra day of session, \$30,000. I have no objection to the current funding mechanism, but I have a strong objection to somebody playing politics and keeping us all here for another day, so you will have to listen to me for the next five minutes, because they didn't want to bring up their objections in the Taxation Committee hearing where this was a Taxation Committee bill, because they just wanted to jerk it around later down in Appropriations. We discussed it at length and Representative Reed, were he here, would back me up whether or not we should run this bill by Taxation and in fact the committee concluded and argued against Representative Reed and myself that there was no reason for this bill to be sent over to Appropriations for approval. After it has gone through the House and Senate suddenly it's back down in Appropriations because one person objected, that and of course the thirty sixth member of the other body who shall go unnamed, but we know who we are talking about. Believe me that person read this bill early.

I've got to tell you how I feel about the workers in the situation. You all ought to vote for this bill. People have done their very best to protect those 450 workers. This may buy them another two years, and maybe even longer if they can get this off the ground. I have said to those workers, you are in a collective bargaining negotiating position, are you aware of what you are going to lose. They said to me at the hearing that they know about Jay, they know about state workers and furlough days and delayed pays and shutdowns, we are well aware of what we will lose in terms of our benefits. The bill is a good bill to protect the benefits as long as they won't get the tax breaks except when the benefits are being protected. That's nice, but they do know a number of workers may not be included in full-time workers and then they won't get the tax break. That's appropriate that the tax break is an incentive to protect benefits. Those who lose the benefits will be working parents, a lot of them women, without spouses and children. I was uncomfortable supporting this bill because of the buy-out arrangement, so I want you to know about the buy-out arrangement. The workers hired somebody and wanted to buy the factory themselves and they were negotiating to buy the factory and then they got closed out. It seems that Representative Snowe made a call to Lynn Wachtel and suddenly the only person with an exclusive option was our former governor. I think he has a vested interest in keeping people employed in this state, but they were closed out of this deal.

The SPEAKER: Would the Representative from Auburn please defer. The Chair recognizes the Representative from Presque Isle, Representative Donnelly and would inquire for what purpose the Representative rises?

Representative DONNELLY: Mr. Speaker. We are challenging the integrity of people who have no opportunity to respond here. I wonder if we have anything other than speculation that we are challenging our United States Senator's credibility on the floor of this House about.

The SPEAKER: The Chair would encourage the Representative from Auburn, Representative Dore, to confine her comments to the motion before us which is final enactment. It's not the provision of any member to question the motive and or integrity of other members of this body, or to mention the name of the Governor by name. The Chair would encourage the Representative from Auburn, strongly encourage the Representative from Auburn, Representative Dore, to debate the motion before us which is final enactment.

Representative DORE: Thank you Mr. Speaker. I am. I believe that the rules allow me to talk about the history of the bill and that history was public and was in the Taxation hearing if anybody cared to attend the Taxation hearing, they could have heard the entire history of this legislation. In spite of my discomfort with the collective bargaining process, in spite of my discomfort with the workers being closed out from buying this, I wanted to support this bill for the 450 workers. When a twelve-to-one report gets tossed in a last minute deal by people who had every capacity to know about how it was funded and rewritten in the middle of the evening and the session gets extended, I felt like I no longer was honor bound to vote for this bill. I would encourage 150 of you to vote for this bill. I want to be very clear about that, but I am not going to vote for this bill and it is because of the process violation. Thank you.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to briefly mention a couple of things. I totally support this bill. I agree with Representative Dore that initial funding was through the TIF process but that got turned around last evening with a proposal that I, for one, would not support. This alternative that was presented is before you right now. Let's look at what is happening here. If we had gone with the TIF this money would have been committed and paid out through our tax structure over a ten-year period. The other proposal would have been year to year. This particular compromise in effect gives you the pay out over a ten-year period. We are taking the money from the Rainy Day Fund but we are not taking the full 1.5 million dollars, we are taking the net present value. What that means is we are taking the money that was reduced 1.5 million dollars over a ten-year period, putting it to work, getting some interest on it so we have this cash flow coming out over the ten-year period. Then also it will allow the people who are playing with this to borrow money on the bond market and it will be secured and they should get a good interest rate and it will provide the money to pay off the bonded indebtedness.

In the last couple of years, and I think we, this state, this body and the other body, the executive branch, we have got to take some bold and imaginative steps to keep jobs in this state, and we have done it. The organization with what is involved with what is going on in Waterville right now, in my area, bought out the only remaining rope company in the

United States, 100s of jobs. They are reorganizing it. They are keeping it going. Look what we did for Avian Farms last year. Look what we did for a guy in Rockland with Nautica to keep jobs there, all bold approaches. That is what we are doing here. If you keep those 500 jobs going, from my point of view, my simple KISS approach to economics, if you keep 500 people employed in the greater Waterville area for two years and you spend \$300,000 to do it, how much have you had come back? Forget the money going out. Think about what is coming back because keep in mind that that worker has his net take-home pay to spend and if that is being spent in that area I believe the multiple effect is somewhere around four or five times the cash going into the area. What has the state lost? Nothing. We have kept 500 families eating, clothed and housed. I urge you to pass this bill. Thank you.

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

Representative DUNN: Mr. Speaker, Ladies and Gentlemen of the House: This bill that we have before us, in my judgment, makes good economic sense. It makes good economic sense for the State of Maine, for the people of Waterville and especially for those 450 individuals who are currently working at Hathaway. According to the testimony that was presented before our Taxation Committee, the investment group that is putting this together is committing, or have committed their own money to this proposition. The city of Waterville is appropriating money to this situation and we are asking the State of Maine. For the State of Maine what we are asking is much less than we are really going to be collecting from the State of Maine withholding taxes from these individuals. In effect what we are going to be spending is approximately half of the money that will be collected from these employees. If this deal does not go through and these 450 individuals lose their jobs we will be losing the Maine income taxes from their wages. It makes good sense to me that we do whatever we can to save that.

The types of jobs that we are talking about are relatively good paying jobs in the Waterville market. They are jobs that carry health and retirement benefits. I urge you to support the measure before us. Thank you.

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

Representative OTT: Mr. Speaker, Men and Women of the House: I would just like to respond briefly to the comments made by the good Representative from Auburn. First of all, it's true that the concerns that are before us in this amendment come late in the session and come late in the deliberations for this bill. However, there were concerns raised in the other body yesterday, late yesterday, and those concerns were taken up by the Appropriations Committee late last night. I think it was through the deliberations of the Appropriations Committee, and a compromise that was reached, born by the amendment that you see before you this afternoon. I would take exception to something that was stated that opposition to be mounted against passage of this bill now because it overrides a twelve-to-one committee vote. I would remind this body that it was not less than 24 hours ago that a similar vote, in fact a unanimous vote, came out of Appropriations Committee for passage of a measure that was going to provide for the pass through for legal immigrants

that was overridden by this body. I see no reason why this amendment before you is now an inappropriate action and I urge passage of the same. Thank you.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to answer the question for the good Representative from Mexico, I believe, and to me we are going to get this money back. Maybe we are not going to get it back in cash, but it is an investment. It's an investment in the City of Waterville, it's an investment in the workers in Waterville, and it's an investment in the State of Maine. Sometimes I look at us and I wonder why am I supporting it. If you read on the second page, it says qualified employees must be residents of this state. Most of the industries that I represent in my area wouldn't be able to use this anyway because they happen to employ people from another state. Therefore it isn't going to help the people that I represent. Don't think I didn't try to get that out of there because I certainly did, but it didn't work. I'm still supporting this because I firmly believe that the people of Waterville who work in the Hathaway plant are not really interested in our squabbling, or in the history of this bill, or anything else. They are interested in their paycheck every week so they can buy their food. They can make their mortgage payments and they can buy clothes for their kids. Those are the people that I really believe that we are putting an investment in. There was a couple of them there and one of them spoke and she had been here for 19 years. I don't know what it's like, because I have been fortunate enough not to have it happen to me, after 19 years at a job that somebody told me that I was all done working and that I didn't know where I was going to have a job. I don't want her to have to face that either because I think it would be kind of scary. I'm supporting this and I think every person in this room should be supporting this because it is an investment and this is 1996 and we have got to do something to keep some jobs in this state. We have a place in York County that has just laid off 450 and it's scary whether it's going to stay or not. I sympathize with those people too because they also must be pretty nervous, especially the one's who were laid off there. That happened to be in Sanford, Maine. I firmly believe that we had better start doing something or we are going to have some more serious problems in this state and we will get our money back, because these people are paying income tax. They are spending their money. Those people are paying income tax. They are paying sales tax. and we will get more back than the \$1,250,000. Thank you.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I thank the good Representative from Berwick but there is something here that just doesn't feel right to me. I am certainly going to support 450 workers. I'm going to support 45 workers. I'm going to support four and a half workers, but when you borrow the money from FAME you pay it back. If you borrow money from a bank you pay it back. The people that you hire pay taxes and you still have to pay the money back. We have a paper mill at home that has been providing very good jobs for about 100 years and they are having a tough time too, but it seems to me that there is an

inequity here. What is so terribly wrong with loaning people money and expecting them to pay it back and not expecting the people who work for wages to pay it back, but expect the people who borrow the money to pay it back? Thank you.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Apparently not everybody was listening. I haven't yet had a 150 to 1 vote. It's my last day here. I am happy to have a 150 to 1 vote and the stand that Representative Kerr came up with a different mechanism for financing, I have no objection to the mechanism for financing. Mayor Joseph has done a good job of taking care of her constituents and I think people in both parties have put a sincere effort into preserving these jobs. I just want to vote against it, so I will ask for a roll call. I hope you understand my reasons. Thank you.

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

ROLL CALL NO. 413

YEA - Adams, Ahearne, Ault, Bailey, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Cameron, Carleton, Carr, Chick, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbr, Luther, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Peavey, Pendleton, Plowman, Poirier, Povich, Reed, W.; Richard, Richardson, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, J.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Strout, Thompson, Townsend, Tripp, True, Tufts, Tuttle, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, The Speaker.

NAY - Dore, Heino, Perkins, Pinkham.

ABSENT - Aikman, Barth, Birney, Bunker, Campbell, Chartrand, Chase, Chizmar, Heeschen, Kerr, Lemke, Libby JL; Morrison, Paul, Poulin, Pouliot, Reed, G.; Rice, Saxl, M.; Stone, Taylor, Treat, Truman, Tyler.

Yes, 122; No, 4; Absent, 24; Excused, 0.

122 having voted in the affirmative and 4 voted in the negative, with 24 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

At this point, the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of

adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

JOINT ORDER - Relative to the Legislature delegating to the Joint Standing Committee on Health and Human Services the authority to issue subpoenas and compel testimony (S.P. 777)

- In Senate, Read and Passed.

- In House, Read on September 6, 1996.

Tabled - September 6, 1996 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage in concurrence.

Representative MADORE of Augusta presented House Amendment "A" (H-942) which was read by the Clerk.

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

Representative MADORE: Mr. Speaker, Ladies and Gentlemen of the House: We have come a long way in one day, I personally have. Yesterday afternoon at about this time I stood before my caucus and said that I would not support the order as it was written. I still feel very strongly in that regard for several reasons. After having met with several of the players on my side of the aisle on the committee, and I wanted to meet with others but was not able to, I sat down and tried to recraft an amendment, which you have before you, that would answer and settle some of the concerns that I had on the original order. There are three areas which concern me the most. The first being that the original language was far too broad and vague, almost giving carte blanche to anything and everything that anyone wanted. I tried to tighten that up by giving a charge to the committee with a date certain. The second was that the fiscal note. I was concerned about how much it would cost, and in speaking with the committee members that I was able to speak with the comment kept coming back that they did not want subpoena power only in case they wanted to use it. That can be debated but the concern was that an estimate of \$5,000 a day, give or take, and some of the members of the Committee felt that one day or two days possibly might be sufficient. I felt that that small amount, compared to what we have done in the last two days to discuss cutting trees based on the loss of life we have seen, the inactivity, the things that we have tried to get answers to that we still can't get answers to is a small price to pay for what these people have gone through and are still going through and we still don't have the answers that I think we need. The third thing is concern over subpoenas. I think a lot of people felt that the power might be abused. I thought about that last night and I came to the realization that the committee is not made up of one person. The committee is made up of two chairs, one from the other body and one from this body, and the committee is made up of Republicans and Democrats. So when we are giving subpoena power to someone we are not giving it to one person. We are giving it to a body of people of both sides of the aisle that I think are far more capable of doing the job and doing it right. I feel that we need to do this.

This morning around 7 o'clock I got on the phone and I called everyone that I could think of that worked at AMHI, family members of people that live or have residents at AMHI, and I asked them this question, and I spent several hours on the phone talking to people. I tried to spell it out and everyone said to me that if they were in the same

situation, if it was their family member, even now they would gladly open the file if they thought it would help someone. That's all I want to see out of this. I know that there has been a lot of maneuvering in the last day of discussion. The intent of this is simply to see this as a way of trying to get some answers and see some movement, to possibly right some wrongs. I think it's worth the merit of discussion. I don't want to see the state employees, as people are saying, possibly beat up on because of subpoena power. My interest is to possibly clear the record, clear their name and give them a clean slate because they have been out there trying their best to keep this place running above and beyond the call of duty and I think by putting this forward we can finally put this to rest and get everything going again.

The question keeps coming up to me personally. I kept asking myself the same question. What am I afraid of and what do we have to hide? That question was asked to me time and time again on the phone this morning. What are we afraid of? What are we hiding? I leave that question with all of you. I think this has merit. It deserves to be listened to and I hope you will support it. I request that when the vote is taken it be taken by the yeas and nays. Thank you.

The same Representative requested a roll call on adoption of House Amendment "A" (H-942).

Representative FITZPATRICK of Durham moved that House Amendment "A" (H-942) be indefinitely postponed.

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

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: This has been a difficult two or three days for the members of my committee and I commend Representative Madore and the other folks on the committee who have worked to try to bring us to some point where we can compromise on this. We haven't reached that point yet unfortunately. As all of you know who have been following our committee this summer, in June we launched a probe of Maine's mental health system. I believe it strongly, and the members of my caucus believe strongly, that this probe was absolutely warranted by the tragedies that have occurred in Waterville, at the Augusta Mental Health Institute, and also by the state and federal investigations of AMHI that involve the potential loss of accreditation. These tragedies have really underscored how fractured and inadequate Maine's mental health system is. There is nothing that we have found out this summer that makes us feel tremendously more comfortable as we have gotten deeper into the operations of the mental health system. We, to a very real degree, have been in a gray area. As we get deeper into our investigative mode we are travelling on grounds that frankly no Health and Human Services or Human Resources Committee has travelled before. It has taken us to a number of different situations that have been blocked by confidentiality laws, to understand more about the operations of the system. I believe in the 118th Legislature there is tremendous merit for looking at confidentiality laws, but more importantly to look at the role of legislative committees and what kind of oversight those committees are capable of performing over the institutions and departments that they are intended to provide oversight of. Again, we have been moving through this process with very little

precedent and very little guidance as we have moved along this summer.

A couple of concerns I have with the amendment before you, and they are consistent with some of the concerns I had with Senator Pendexter's original resolution. This amendment does nothing to change current confidentiality laws. Confidentiality in the mental health system is derived from federal law and state law and is very complex series of laws that make it very difficult to do any type of investigation. I believe that the 118th Legislature needs to spend sufficient time to look at these laws in relationship to the role of the legislative committees. Again, this resolution does nothing to open up confidentiality, so we will be in the situation where we can certainly call people from the private sector and public employees before the committee. All of them will be represented by attorneys and frankly they don't have to talk to us, which leads me to our second problem. We only have two months left. I, more than most people in this room, understand the operations of the mental health system in Maine and understand the failings of the mental health system in Maine. Believe me, deep in my soul I would love to have the ability to open up the box wider. I don't believe in two months, given the restrictions of confidentiality and the legal process, that this is going to give us the opportunity to look deeper. If I really believed it would, I would support Representative Madore's amendment.

The third problem is, and it is sort of out of my control, because as committee chair I don't control budgets. The reality is that anybody who is a public employee that we request to come before our committee and to subpoena would have to be provided with a lawyer. We would have to pay for the lawyer. Precedent with the PUC hearings back in the 80's was that there were two attorneys hired by the committee, private attorneys. One for the majority and one for the minority. I'm not saying that would happen, but at least one private attorney would be retained. I don't have the same level of comfort as the good Representative Madore has as to what the cost would be. Again, those are out of my control. Those would go before the Council. So, in a very real sense, the Legislative Council would dictate the size and scope of this investigation.

I believe strongly that this investigation will carry over into the 118th Legislature. I don't believe this job is going to be done early in December. I believe the next Human Services Committee will have to carry on a level of oversight over this department for the foreseeable future. Regular meetings, reports, calling people before the committee, so again, I think I would ask you to vote for indefinite postponement of this amendment and leave what needs to be done to the next Legislature. Again, I think you are seeing a long-term process. The costs are unknown and frankly for good or bad this committee goes out of existence in the next two months. Thank you.

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

Representative ETNIER: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in great reluctance to have to debate this issue. It is a horrible situation that we have been engaged with here in the state regarding these murders. There is nothing about it that is going to bring comfort to

anyone, no matter what we do here today. It has been very tough for our committee since the beginning of June when we started meeting on this virtually every Friday, not quite, to discuss this and look into this. The committee has done a very good job. We have worked well together. At least, I think the members in this body on our committee I have a great deal of respect for. We have tried very hard to get as far as we can with this investigation, if you want to call it that, this looking into the workings into what went wrong in at least these two instances that Representative Madore has referred to.

I think there is a misunderstanding and Representative Fitzpatrick touched on it that there is something in this Joint Resolution, this Joint Order, Representative Madore's amendment that will allow us to get further than where we can now, legally, as a committee. We have gotten quite far already in this path. I have on my desk, a six or seven inch high stack of paper of stuff that we have taken in the investigations that we have done so far. Reports that have been done by the McDowell Commission and independent reviews by the Maine Medical Association and others into the deaths that occurred and obviously a lot more paperwork. There is a lot more paperwork that is coming our way. Evidently, our legislative analyst told me that there is 300 pages awaiting our committee now of redacted confidential records. I only learned a couple of weeks ago that redacted means blacked out for the stuff that is confidential. It is awaiting us upstairs and according to her there is approximately 4,000 pages that will be coming to us over the next week or so. Let me just repeat, that is approximately 4,300 to 4,500 pages that we haven't even seen yet as a committee as a result of the work we have done so far and we have yet to wade through and these are results of waivers that we have requested and largely the result of the Burns family cooperating with those waivers and the department cooperating with the redacting of that information.

To get back to my original point regarding how far we can go as a committee, I was very interested in that and it was brought up to me as a reason for going forward with the subpoena power. I called Cab Howard yesterday. I have a letter in response from him dated September 6. If you please bear with me, I will read as quickly as I can the gist of it. "In the view of this department, the acquisition of subpoena and other investigatory powers by the committee pursuant to a Joint Resolution would not permit access to information declared confidential by statute. The basis for this view is that a statute declaring certain information in the possession of a department to be confidential enjoys the full force of law having been enacted by both Houses of the Legislature and approved by the Governor. Whereas a Joint Resolution granting certain investigatory power to a legislative committee is only required to be approved by both Houses of the Legislature and thus does not enjoy the equal status of a statute. Consequently, while the subpoenas issued to a committee pursuant to a Joint Resolution may be enforced in court, persons appearing before the committee in response to such subpoenas would not be able to disclose information declared confidential by statute to the committee. Similarly, persons would also have available to them their rights not to be required to give evidence against themselves

guaranteed by the United States and Maine Constitutions." That is the gist of that letter.

In addition to that there are two ongoing criminal investigations that, I believe, the amendment before us would jeopardize and would cause serious problems for and may jeopardize the outcome of those cases in the eyes of the law. In addition to that, we have not been turned down by anyone, as a committee, in the requests we have made over the last three months for people to come before us. We haven't been turned down by anyone in the public or private sector who we had come before us. They have all come forward willingly from the department, contracted agencies, private sector and they have given us full disclosure to the extent that the confidentiality laws allow. You have heard in the media that we can only go so far and that is what we have been continually butting up against. Representative Fitzpatrick did mention a cure for that. It would have to occur in the 118th Legislature as they deemed fit.

It is my strong hope and I am sure this will be the case that this committee will and shall and should continue to meet regardless of the outcome of this vote on the indefinite postponement throughout the fall to review the documents that are waiting for us upstairs in our committee room. Review the documents that will continue to come in as a result of the work we have done and the requests we have made for waived information and that we have a lot of work ahead of us to do to oversee not only that information, but the work that was started and has been ongoing by the department and others in reference to the McDowell Commission's recommendations and others. They have started acting on those. I think it is definitely our foremost job to make sure that everything that is requested gets carried out to the full extent possible. Also as a committee, that we report to you folks and to others at the end of our life as a committee with further recommendations and that we pursue those to the fullest extent possible. We have a lot of work left to do. I repeat, there is nothing that I am aware of in Representative Madore's good intentioned amendment that will allow us to go further than what we can legally now. I urge you to support the indefinite postponement. I appreciate your time.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House: I was listening very carefully to the remarks of the Representative from Harpswell about the letter that he received from the Attorney General. Lest there be any misunderstanding about what he said, as the Attorney General's letter is related to me, just now, it appears to me that it does not say that the committee does not have the power to investigate, but only that the committee is limited by statute to certain areas and perhaps cannot get into certain confidential areas.

To me, that provides some further assurance regarding this particular order. To the extent that it has been implied that this is not a proper area for the Legislature to get into, I would like to remind this body that according to all precedents that I can think of and specifically the rules that we operate under, it is the right of a Legislature and perhaps the duty of a Legislature to investigate these types of things. Let me just read to you a sentence or two from Mason's, Section 795. "The right of a legislative body to make investigations in

order to assist it in the preparation of wise and timely laws must exist as an indispensable incident, an auxiliary to the proper exercise of legislative power. This has been recognized from the earliest times in the history of U.S. legislation, both federal and state and from even earlier epics in the development of British jurisprudence. The inherent and auxiliary power imposed in Legislative bodies to conduct investigations in aide of perspective legislative carries with it the power in proper cases to compel the attendance of witnesses in the production of books and papers."

Now, this is not some new thing. This is not some gray area. There are good reasons why. Of course, when you talk about the departments involved, you might think that they may be able to self-correct, but we all know that sometimes there is an inherent reluctance on the part of such departments to acknowledge that perhaps a problem exists. There is a human nature aspect of this that is involved, and that is self-protection. In similar fashion, the executive branch itself, although primarily responsible for administration in these areas, you can feel it at some times that revelation of some improper or perhaps unwise procedures is not something that is in its best interest. If that is the case and I think it is the case sometimes, not drawing any particular conclusions about what might have been the case here, it seems to me that it is entirely proper for the Legislature to exercise its power to look into situations in proper cases with due respect for people's rights and to see whether or not there is something that ought to be done legislatively to correct the problems that seem to exist.

I know it has not been exercised a lot in this Legislature. It has been exercised a lot in other Legislatures and especially with the federal government. It is entirely proper to make these investigations provided that people's rights are respected. I had some problems with the original order, but it seems to me, in light of the Attorney General's opinion regarding confidentiality, that the scope of this particular investigation is something that I personally feel comfortable with. I think it is the duty of the Legislature to conduct such an investigation where we have three deaths.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: This is one scary place. The more compressed we are for time, the scarier we get. It is one thing to investigate. Every committee has the right to investigate, but we are talking about investigation under the power of subpoena and giving the committees the power of subpoena. Right now we are having some problems over in Maine Yankee. Shall we give the committee on Energy and Utilities the power to subpoena the folks from Maine Yankee to come over? What committee are you on? What do you oversee? Shall we give you the power of subpoena? We are opening up a very, very complex can of worms here. I think we had better be sure this is what we want to do before we do it. Thank you Mr. Speaker.

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

Representative DORE: Mr. Speaker, Men and Women of the House: This effort and the amendment trouble me. I will tell you why. The reasons may be noble,

but we haven't sought the opinion of the Maine Medical Association on patient confidentiality. The fact is that every doctor in the state tells their patients that their records are confidential. You may assume that mentally ill people don't know that their records are confidential or that we can make the best judgment about their records. That assumption would involve a prejudice. That is the only thing that it could possibly involve. It is inappropriate for us to investigate, in this way, without at least the opinion of the Maine Medical Association on how doctors feel about access, about getting people in front of you and asking questions about private records, at least an opinion from somebody from the Bar Association about the rights of patients, at least an opinion from the Supreme Court about whether it is appropriate for us to invest our time and energy in this type of investigation.

We are not the Supreme Court. We do not belong in the venue of that third branch of government. When you start subpoena, I think you are getting into something that is more appropriately served in the courts. If people want to pursue a lawsuit and bring a bill to the Legislature next year to call for some access to records in their lawsuit, there will be an opportunity to debate this in front of the full and appropriate committees to look at whether or not that kind of access to private information and questioning people about their encounters with patients is appropriate. I have a family member who is not well and is sometimes in the hospital. I wouldn't want her questioned by a legislative body because of any event. It really troubles me to think that we could do this to people or that we could question staff as though we were a court and as though we had checked with the Maine Medical Association about doctor-patient confidentiality. As though we had checked with the court about whether this is appropriate to expand our jurisdiction.

I am uncomfortable with this. I will vote against it in any form. I think those of you who really want to pursue this will have the opportunity to do so in a very few months. If your voters are confident that they should return you to do this thing, if they believe you should pursue this, they will send you back to pursue it. Thank you.

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

Representative KEANE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative KEANE: Thank you. I was wondering if the committee of jurisdiction took a vote on this and if this is a unanimous vote of that committee to request subpoena powers and if they didn't take a vote, has the committee been polled? I would like to know what the consensus of the committee was in this regard. Thank you.

The SPEAKER PRO TEM: The Representative from Old Town, Representative Keane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Durham, Representative Fitzpatrick.

Representative FITZPATRICK: Mr. Speaker, Men and Women of the House: To answer Representative Keane's question, no, there was never a formal vote of the committee on whether to request subpoena power. When the original order was drafted, no one on the committee, as far as I know, had seen it other than the Senator who submitted it. That is why there has

been a fair amount of attempts in the last few days and are really good faith attempts by a lot of people to try to cobble together something we think we could all agree to. We just haven't been able to. It is something that the committee has talked about, to be fair. As I said earlier, you need to understand, we are a citizen Legislature. The Health and Human Services Committee is made up of people of all sorts of backgrounds. One of the things that we have spent a lot of time talking about is confidentiality. How liable we are for lawsuits as we get deeper into this process? I tell you, as a citizen legislator, it is daunting as we move closer and closer to the legal field and the potential that we could be sued by breaching confidentiality that is something we have been treading very carefully on. The whole issue of subpoenas, as you can well imagine, is fairly controversial.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin.

Representative MARVIN: Mr. Speaker, Ladies and Gentlemen of the House: As we all know, Human Resources met the entire summer to talk about these issues. The reason why, is we have had a collection of incidents, a pattern of behavior that is a cause for concern. The citizens of Maine send their loved ones to AMHI and enrolled them in a form of community care because they are ill. They are unable to take care of themselves. Families send us their most vulnerable in good faith that we will take good care of their loved ones. In the past year, we have had a patient brutally murdered, allegedly, by another patient. We have had a patient in community care murder two nuns and nearly beat two others to death. We have had at least two unexplained deaths among those receiving care in the community. We have had a patient choke to death on a peanut butter sandwich. Perhaps these incidences have been carefully reviewed and policy changes have been made to ensure that this type of thing will never happen again. That if the same set of circumstances were to reoccur today, the outcome would be different. I would really hope that this is the case. However, I don't know this to be true. I need reassurances and that is why we can't put this off any longer.

Don and Jan Burns are the parents of Wendy Hayne. Last April 6, Wendy was brutally murdered on AMHI grounds while in state custody, allegedly, by another patient. In my opinion, we owe it to Don and Jan Burns to understand exactly what happened and what we have done to ensure that it won't happen again. I have spoken to Don and Jan nearly every day since the Speaker instructed our committee to conduct an independent probe of Maine's mental health system. I spoke to them twice yesterday and they called me again this morning. They keep asking me who's protecting Wendy's rights here? I am having trouble with this question. Don and Jan Burns are among the most courageous people I know.

As a mother, I don't know how Jan Burns finds the strength to listen in gruesome detail how her daughter bled to death on the floor of a storage closet. I don't know how she found the courage to read all 5,000 pages of the records of her daughter's life at AMHI, which incidentally were delivered to her unnumbered and mixed up. Jan Burns told us that Wendy didn't need to die, but there is nothing she can do to change the fact. Her daughter is dead. All Jan Burns can do now is help our committee in

trying to find out whether or not the 101 people remaining at AMHI are safe. That is why she gave us all of Wendy's records. It was all she could think to do.

The good Representative from Auburn states that confidentiality in this issue bothers her. Wendy's mother signed a waiver, what more could she do? The good Representative from Harpswell said that we have never been turned down by anybody we asked to come in front of our committee. I asked one person who testified in front of us a question and he said, "Well, my lawyer told me not to volunteer any information to you people." We had one situation where we were talking about the discipline that was handed out to some of the people that were in this case and we were told that you can't find that out for 120 days, what happened. We thought, oh good, that happened two months ago so that's 60 days. He said, "Oh no, you had to file something and then the clock starts ticking." Well, you see, nobody told us that. Our committee is kept in the dark in these types of things.

I need to confess to you that I was bitterly disappointed two years ago to be assigned to this committee. Today, I will tell you that I have enjoyed my work on the committee. The reason is we have dealt with many complex and difficult issues. I have enjoyed the mental challenge. I have also enjoyed working with all the rest of the committees. As a committee, we have had very few divided reports because while we are all philosophically different, we are in concert with the idea that our job is to protect the most vulnerable people of our state. The people at AMHI need our protection and our help. We owe our support to them and their families. I trust that my fellow colleagues on Human Resources are going to join me in voting to make sure that when people in our district need care, due to mental illness, our state will give them the care they need. I ask you to join me in voting to defeat the motion to indefinitely postpone and move forward to adopt Committee Amendment "A." Mr. Speaker, I would ask for a roll call.

Representative MARVIN of Cape Elizabeth requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-942).

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: As I have listened to this debate, I am struggling to stay on point. I am reminded of a lawyer's story and I don't know which category some of the statements belong in. I must confess that I am married to a lawyer, so I am really not poking fun at people I don't care about. The old saying goes, "If the facts aren't on your side, argue the law. If a law is not on your side, argue the facts and if neither is on your side, you pound the table." I am not sure which is facts, which is law and which is pounding. I am sure of one thing. We are not here out of disrespect for one another or for the committee process. Certainly Representative Madore and I who both represent the City of Augusta have worked side by side for almost a year now on the issues surrounding mental health. That is not the issue. If I may Mr. Speaker, I would like to pose a question through the Chair to anyone who supports this amendment. The question is this, we are not talking about whether or not to investigate.

We are talking about one thing. We are talking about subpoena power. I want to know, perhaps from Marvin or someone else who has spoken in favor of this amendment, what it is that you will get from subpoena power that you have not been able to get? It was not the Haynes records, you have those. Confidentiality statutes do not go away. What is it that subpoena power gives you that you do not have at this point?

The SPEAKER PRO TEM: The Representative from Vassalboro, Representative Mitchell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin.

Representative MARVIN: Mr. Speaker, Ladies and Gentlemen of the House: My belief is that there are many employees at AMHI that would like to talk to us. They would like to tell us what is going on and what they think needs to change in order to make it a first-class institution that we would like it to be. That being the case, it is pretty difficult for them to come forward and say that gee, they would like to tell you something. They need to be asked by us to come forward and that is what the subpoena power would give us.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All 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 Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I apologize, like so many of you, for delaying this discussion. I think it is an important issue and I think it is an issue that we take time in and I realize people would rather be in many, many different places. The significance of events do not diminish the rationale that this bill is before us. This particular order is before us because of the really horrific and tragic events that have occurred in the last year. I think it is a concern to both Democrats and Republicans alike. Earlier, last month before the legislative council we had two items that we offered for consideration for this session. One dealt with a provision that would have opened up the confidentiality records in all cases that we could see.

The second one was to establish the Human Resources Committee as an investigatory committee. At that time, I raised concerns about two or three basic issues. One was there was no timetable envisioned as to when the work was going to be accomplished and secondly, I hadn't seen any work plan as to what they hoped to accomplish and thirdly, there was no budget submitted to the council, as is required by law. Title 3 requires that the legislative council needs to approve a budget of any investigatory committee. None of those things were envisioned at that time. That, combined with the fact that there were numerous studies, several criminal investigations and stakeholders groups who were looking at the broader picture gave us cause for concern as to what could reasonably be accomplished by this investigatory committee. All be it in a relatively short period of time notwithstanding the fact that they have been meeting since July 7 and 8

and reviewing an incredible amount of information. These are very difficult circumstances. I don't think there is a member here that is pleased. Frankly, we are extremely disappointed at the delivery of mental health services in this state.

I think many of us are also deeply troubled and disappointed by the response by the current administration to the tragic events that have transpired. Once again, the issue becomes, will this be the answer? Will this investigatory committee allow that to go away? Will this make things better and or not? The Human Resources Committee, as I said, has been meeting since the 7th and 8th of July. I favored the Human Resources Committee being involved in this area. As you may know, there was discussion at one time about having a special investigatory group made up of nonlegislators versus having the Human Resources Committee involved. I was strongly opposed to having an outside group. They had lined up several professionals to serve on that group, professionals that are now unpaid consultants to the committee of standing without ever taking a vote for that to happen. If you are to be unpaid consultants, I was concerned at the time because many of these so-called consultants, which are currently consultants to the committee represent entities in the State of Maine that have a direct financial interest in terms of discussions that are going on in that particular committee, this committee notwithstanding their charge. I supported the interest, as I indicated and Representative Lovett was nice enough to distribute a press release of my support for the particular committee to be involved in this.

I supported this because I thought it was important that we protect the welfare of those clients that are currently populated at AMHI in community-based settings and the general public as well. We needed to look at the policies and procedures and procedures that are in effect. We needed to look at what accountability would be in effect. We wanted to know what happened when patients were discharged from AMHI. Was there a trail? Was there a way to provide safety for the public and for those patients in and of themselves? I supported those issues.

I also made a promise, as did Representatives Joseph and Jacques to the Sisters of the Blessed Sacrament, that I would do everything in my power not to allow any committee of this Legislature to sensationalize the tragic events that happened in Waterville. I took that promise very seriously, as did Representative Jacques and as did Representative Joseph. They pleaded with us not to relive that, but to ensure that any review would be made in such a way that we were looking at policies and procedures. We were looking at accountability and that we wouldn't jeopardize the on-going criminal investigation that was currently being held at the same time and are in existence at this time.

When you look at the history of investigatory committees, we looked at the statute in terms of how they were created in 1985 and they were very specific and very exacting in terms of what the scope would be and terms of what the time lines would be, in terms of what the cost would be, in terms of how they would go to the council for approval of their budgets. They spent a small fortune on that particular study. The reality is if you don't take that position, you don't subpoena people. You don't engage court

reporters. You don't retain legal counsel without spending a huge amount of money. That is just a reality. You have to do it. While it was suggested in the other body that the Attorney General's Office can be involved in this, let's be honest. The Attorney General's Office can't be involved in these cases because they are going to be representing the case in many of these criminal cases that are ongoing at this time. That is not a realistic approach to take.

It has been said that one of the issues was, what can you reasonably hope to accomplish by granting subpoena power without confidentiality? I am thrilled that we are not offering confidentiality. We are not opening that up. That is a major public policy decision that this Legislature should be involved in. I hope it will be during the next legislative session. I fail to see what we are going to accomplish by this without opening up confidentiality other than a kind of a club to be able to subpoena witnesses to some extent to testify. I hate to think that the only thing that is going to make state employees testify is forcing them to come to us and do that. The reality is you and I are hearing from them every day, confidentially, they are talking to us. They are explaining their positions and their concerns. They have not been shy in contacting me. My guess is that they haven't been real shy in contacting many of you. I think the gut check for me is what we can reasonably hope to accomplish by offering the joint standing committee on Human Resources, I have tremendous respect for what they have done to date, notwithstanding the concerns and some of the editorials that we have seen and their concern about the credibility of the committee being compromised because of some of the unpaid consultants and the role that they may play.

Notwithstanding those issues, I have great confidence in the role that the House and Senate and particularly the House Republicans and House Democrats have played as they have tried to come to grips with this particular case. I fail to see where this is going to resolve the problem. We all want it resolved. You know there is a stakeholders group involved. We know there is an ongoing criminal investigation going on. We know that this committee is going to continue to stay involved and continue to report and continue to press the mental health department and administration officials for answers. I have yet to have been convinced today by anything I have heard that this is going to help improve the situation. It may help people politically, but it is not going to help the people and the patients and families that are still affected.

I would urge you to support the motion of the Representative from Durham, Representative Fitzpatrick that this Amendment "B" be indefinitely postponed.

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

Representative LOVETT: Mr. Speaker, Ladies and Gentlemen of the House: I really am sorry that I have to follow the good gentleman from Fairfield and that I have to disagree with him. I do have respect for him and what he tried to do for the mental health system in this state. This is not about politics. This is not about sensationalism. This is about people. People that have been entrusted in our power. People that are in our institutions. They

need the perception that we can give them. I am proud to be a member of the Health and Human Services Committee. We have worked very well on both sides of the aisle. We have accomplished a lot this year. This committee voted unanimously on several issues. I made a list of our missions and goals. Each one you have them on your desk in that pink copy. This was not a last minute decision to put an order in for subpoena powers. This had been discussed.

You know, fellow colleagues, the State of Maine did her wrong once. Let's not do her wrong again. We have to get to the bottom of this and we have to find solutions as to what happened, so it will not happen again. I truly believe that Wrendy Hayne had a good team of mental health providers. This is the reason I personally and my other committee members want to find out, where did the problems occur? In order for us to provide a safety net for the other 101 patients at the institution at AMHI. You know, we are spending some 26 million dollars for about 101 patients. That is quite a bit on a per patient. I want to give them what they need.

I want to close with this. If you hired me to be your cook, I am a good cook, you wouldn't take my oven away from me, would you? Would you please give this committee the tools that it needs to do the job that I think we have to do. Let's stay focused on what we are asking and not bring politics into it. We have done such a wonderful job so far. Let's keep it nonpolitical. This body can vote today, by voting no on this motion to indefinitely postpone. We will be giving the Committee on Health and Human Resources the powers we need to complete a proper investigation into the death of Wendy Haynes. I will say we failed Wrendy Hayne once, please let's not let us fail her again. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Everyone in this room knows that there are very serious problems in our mental health system. There are very serious problems in the Department of Mental Health and Mental Retardation. Everyone on our committee, as well as everyone in this room, has been very committed to trying to solve those problems. We are all here with the best of intentions. In the last few months, almost every Friday of this summer, we have been here to look into the problems of the department and some of our contracted providers. We have gotten further.

The department has acknowledged that there has been no quality assurance process. We have the McDowell Report, which outlines clearly the deficiencies of administration at AMHI. We have made progress. People who are not doing their jobs, have been removed. We are making progress. There seems to be the idea that there is going to be a silver bullet here. If we haul in enough witnesses and sensationalize this enough, that we will find the guilty party. There isn't one. We have a broken system. What we need to do, what we have been doing and what we will continue to do is thoughtfully and thoroughly change the policies that aren't working, to fix the programs and to hold people accountable. We are doing that in our committee process and unfortunately, I do not believe that the subpoena power will get us any closer to the solutions we are looking for. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House: I am not on the Human Resources Committee, but I can't help but be struck by phrases that I hear that we use to distance ourselves, like clients populated at AMHI. I mean no disrespect to the Speaker, but clients populated at AMHI are people, powerless people. They cannot say, I am not being treated well. I think I will move on. I think I can go somewhere else. They can't. I wonder if this is against my rights? They can't. We are not looking to find a guilty party. We are looking to find why when the first incident happened, it was a tragic occurrence. When the second incident happened, it was a tragic occurrence. Then there are two unexplained deaths and that is tragic. Another unexplained death and that is anomie. Which one of the 101 patients wants to be the next anomie? We are spending a small fortune on the 101 patients. That doesn't mean they are getting the care they deserve or they wouldn't be dying in our care.

If this was a private provider, not the State of Maine, but a private provider and these incidents had occurred, this body would be screaming to find out why our dollars were not going toward finding out why our dollars did not provide these patients a safe and proper place for them to be because they are in state custody. They are relying on us to look through policy procedures. Perhaps individuals may not be individuals. They can't come here and say, please, my ward doesn't operate the way it should. They can't. State employees can't step up to the bat and say, "Listen to me, I need to tell something." They need somebody to say, "How about if we give you a subpoena, then can you come to the committee and tell us what is going on?" Some people will actually ask for a subpoena. The people in this room who are lawyers or have been in law enforcement know that. They will say they don't want to get fired. If you give me a subpoena, then I am covered. Subpoenas don't necessarily have to be a bad thing. Will it be expensive? Maybe. Probably, we have lawyers and court reporters and all involved. Is it worth it? If it is not worth it to find out why people are dying, then maybe we should just shut the place down, give them the money and let them take care of themselves. Basically, we are not willing to look into and be able to say that this patient will not be another anomie. This will not happen.

Why am I so upset about this? I had a call from a young lady the other night who is going to lose her job. She is ready to lose her job and she doesn't care if she ever works again. There are two patients in Pineland, who are housed together purely for financial reasons, a man and a woman. They are an elderly woman and a less elderly man. They hate each other. They detest each other. This little old lady gets beat up on a regular basis by her roommate. That we can look into, but if somebody is getting beaten up by their roommate at AMHI, we can't look into it because it is the state running it. We really need to be able to look into this. If you can put yourself in the position of someone who is very mentally ill or mentally retarded, just for a minute, to feel a little bit of the powerlessness of how you are on a ward and you are not going anywhere. Nobody is going to help you. The people who really care about you are probably your caretakers and they can't help you because they can't speak up. That is powerlessness. I would ask you to please defeat this motion and go on to approve the previous motion.

These people are counting on us to at least assure them that when they die, they will die of old age. Thank you.

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

Representative WINGLASS: Mr. Speaker, Ladies and Gentlemen of the House: This is an extremely important issue that we are dealing with. I think the good Representative from Augusta has shown great courage, determination and fortitude as he has advanced for our consideration one of the finest pieces of legislative work that we have seen in some time. It has taken a good idea and made it a much better idea, because it is tightened down and reconciled the concerns that were expressed about the original document.

I work on the Health and Human Services Committee with some of the finest men and women in the State of Maine. I am very proud of my colleagues. I am proud of the good Representative from Durham and I am very proud to call him my colleague because he leads by good example and work ethic, as do all of my colleagues from the House and Senate. I am going to tell you something. I think we are here in this body elected by people in this state to among other things, protect those that have no others to protect them. Across the river and in the communities, there are people who are enduring the scourge of mental illness. They don't have it because they want to have it. They have it for many, many other medical reasons. They need care and custody and above all, especially in an institutional setting, they need guardianship and protection.

I don't give a darn whether we get 10,000 pages of material to look at. The work needs to be done to look out for those people across the river. I don't care if it costs us \$50,000 for some court lawyer to come and protect our interest. That doesn't matter a darn bit to me. What matters to me are those people across the river and out into the community. You many listen to these administrative things. Who cares about an election? We have lives at stake and I think we had better start thinking about them rather than elections. Elections don't mean a darn thing. The lives of those men and women, which are entrusted to our care, are something we better put in first place. I don't know about you, but in all due respect and I have already said nice things about Representative Fitzpatrick and I know his motion is well intended and well intentioned, but I am not going to support it. I am going to vote against this motion because I think it misses the mark. I want us to get an opportunity to vote for Representative Madore's amendment, which I think will pass the quality test. Thank you Mr. Speaker.

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

Representative SAXL: Mr. Speaker, Men and Women of the House: I care very deeply about this issue. The deaths that have occurred at AMHI, I am sure affect each one of us. We grieve them. We want to know what it is that caused them. We investigate and that surely is the correct thing to do, to try to find out, to try to improve the system, so that these things will not occur again. We have investigations ongoing. We have criminal cases ongoing. My fear is the awarding of a new power, a very strong power, the power of subpoena. I hear you in this body say that we have confidentiality laws which will protect us. I guess I am old enough to remember the McCarthy

area. I didn't know what can happen when people are called unwillingly before a body and what they can do to their reputations. I feel certain that we will find what our problems are without these extraordinary powers. I feel certain that we should not force people to appear before us, calling on powers that this body has never had before. We may very well compound the tragedy that we currently have with a new one. Please think about this and reserve those powers for when they are appropriate. Thank you.

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

Representative HARTNETT: Mr. Speaker, Men and Women of the House: Aside from all of you, there is something I love about this job and that is that it challenges you constantly. It challenges the things that you believe, your ideas, values, arguments and constantly challenges you to stand by them. Yesterday afternoon, in our caucus, I guess you could say I railed about the resolution that I thought was forthcoming from the other body. As many of you know, issues of privacy are very, very important to me. My colleagues that sit with me on Judiciary will know that an issue of privacy of teachers who were applying for jobs, remember the bill where they might have access to DHS records, if there were any allegations of sexual abuse or sexual misconduct, I stood for those teachers and their right of privacy from the hint of allegations when everybody else went away. I will tell you, they went away. Maine Civil Liberties Union, they signed off on a deal. The labor unions, they signed off on a deal. A few of us stuck with it because we understood that privacy was important. We prevailed. We took our arguments to you and I think you used good judgment.

The issue of drivers license records and people who might have protection from abuse orders. I argued on this floor for privacy. These people need privacy. I am not shrinking violet when it comes to issues of privacy. There is a common denominator in all those and why I argued against the original resolution. I felt that the privacy of individuals would be violated. I didn't want to create victims. What the Human Resources Committee members that I have been able to speak to have done and particularly Representative Madore, we should give the credit where it is, is they addressed the concerns that we wrote. That is why I got back to what I love about this place so much. Representative Madore has narrowed and focused, with his amendment, the scope of investigations, like a laser beam. Specifically two tragedies that occurred. He has also dealt with the issue of privacy. The right to privacy by keeping, I read it as an executive session. Any depositions that are taken and any documents that are looked at will be in that closed environment.

Now it is time for me to make sure we don't have any more victims. I read the 4-page handout that arrived on my desk courtesy of Representative Lovett and I am reading what words I understand by inquiry, the unanimous goals of the Health and Human Services Committee. I have heard from some of those members that say, we cannot achieve these goals without these powers for a simple reason. State employees would have knowledge of the event surrounding the two tragedies and cannot talk about them. I don't see how a committee unanimously arrived at that goal to determine the circumstances of those tragedies, that is number one. Number two, to determine what

policies were in place, but not followed. How you can ever arrive at those conclusions if the people involved will not tell you what happened.

In the case of Wrendy Hayne, what I have learned in the last 24 hours, her files would have been confidential but her parents went to the courts and said, we don't want them to be. They are confidential to protect her. You are not protecting her by keeping them confidential. The court agreed and allowed those files to be opened. Here arrived 5,000 pages of documents. Who in this room would be able to understand what was in those, if you were not in the field. Then, what we find out, is the very people who created those documents. The very people who would have the most understanding and the most knowledge of what they mean and say and what might be missing, will not be able to speak. I would dare say that Wrendy Hayne's parents have only gotten half the relief that they wanted. They got the files, but as if they were in Chinese. They never got the interpreter. It is as if we gave them a car and said, it is yours, but we are keeping the keys. Whose rights are being violated here?

No one is trying to sensationalize this case or the case of the two nuns at the Blessed Sacrament who were brutally murdered and whose deaths we mourn in this very, very body. What I have also experienced in the last 24 hours to make myself change my mind is, frankly, a memo from the Speaker of the House. Actually as Speaker of the House, I think of all of us, he speaks for the House. I see it as my memo. My memo, our memo and our words created this committee. In that memo, whereby we create this committee, we state that the greatest concern is the health and safety of the people who need mental health services and are supposed to be helped by our mental health system.

The other major concern is the safety and security of all Maine citizens. Apparently we have changed our minds since July 3. Apparently now the cost of an investigation, reputation and the fact that an employee might be held accountable, the time frame and all these other things are being thrown up as more important now than the health and safety of Maine people, especially those Maine people who we are to protect.

For moments I got so ashamed by what I was hearing. The things that are suddenly whizzing to the top as more important. Later, in our memo, we are told what we say to the media and to the people of Maine, that the Legislative committee is the most appropriate group to conduct an independent probe. An outside task force does not have the legal authority it needs in order to conduct an investigation. The arguments that there are all these groups out there working that are going to do the job better. We never made them in July. We made another argument and said that our legislative process was the best. We are shrinking from that now. It almost seems to me that this committee was set up for failure by us. We told them to go do this heroic job and let the word go out to all the people of Maine that we care about their safety, the safety of people who are in our care. Then we shied away from the task because feathers started getting ruffled and those who should be protecting the state employees are, in fact, doing them the greatest disservice by telling people not to vote for this bill. Right now a cloud of suspicion hangs over an entire institution and all those employed therein. A

cloud that may have no justification. We don't know. We don't know if everybody did their job right. It may be, perhaps, one or two individuals didn't. The cloud hangs over everybody. The entire institution is suspect. It is suspect by the people of the State of Maine. They don't believe we can protect the patients therein and we don't believe that we can protect ourselves from actions those patients might take if not receiving proper care.

Did we set them up for failure? Did we say just go do this job because it made us feel good? We are doing something about it. We have a committee. We are not going to give them tools that they need to conduct their job appropriately, but we have a committee. I will finish with this. I know I have probably gone on too long for somebody who wasn't even involved 24 hours ago. We often speak of our colleagues in this House, when we are trying to be the most complimentary. We say, he or she, is a person of their word. It is the highest compliment we pay each other, isn't it. Representative so and so, if they give you their word, you can count on it. It is the highest compliment we gave. It seems to me that through our memo, when we created this committee and through our oaths of office, we gave people our word that we would watch out for them, for the general public and for those in the special care of the state. I hope we can all go home proud, all of us as a Legislature, for people of our word.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Norridgewock, Representative Meres.

Representative MERES: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to take a few seconds to speak on this issue because it is something that I have listened more to than talked about. I have heard some wonderful arguments here on both sides of this, but what comes to me starts out as a personal experience with the people in Waterville, that is my church. It is the area where I pray. The sisters that accommodate me, the family of the person responsible, the actions of forgiveness on the part of the community, those are all personal with me. Also, in my district, there was a man who was murdered there by a client. It is something that I have dealt with in a personal level. The one thing that I am hearing here is it has sort of come down to an argument on the value of privacy rights and the value of the people involved. We are speaking here and I have to tell you from my perspective or my background, I have a great conscientiousness of social justice. That is something that has been a part of me for a long time. When you look at the people involved, you have to really ask yourself whether, after all the debate, what you are doing on their behalf is just. Is it just? Are you giving them justice?

I am here to say that, as we have been in our conscientiousness, as we watch television and we hear about the poor children in New York and in other places that were suffering from abuse. Where there was no ability through the system to deal with those children. The one young child that was physically abused and the other that was starved to death. There was no ability. There was no voice there that said we should do something. This was a frustration. The whole country experienced that frustration. When we come here we have the same thing. The world was looking at us when we had the problems we had in Waterville and there was great

frustration. Honorably, on the part of the people involved, great forgiveness and understanding, but, still to this day, I am wondering whether the people involved, the people who are sick and mentally ill and their families, the families of these people are especially frustrated and have to carry a lot of burden, are really given the value that we give to other things.

As we went through the whole process yesterday with the compact that we talked about, we talked about property rights and we talked about the value of taking away the trespass when it comes to areas that deal with the forest and that deal with the quality of the forest. We have given up a lot here to make sure there is access with no warrant to go onto your property, to go right up to your door to find out whether or not there is something going on with the forest, no search warrant. We are dealing with trees. Here we are dealing with human life. We are dealing with the frustrations of families trying to protect their own. We are the overseers. As a selectman, I was the overseer of the poor. Here we are overseers, too. I just want you to think about this in a sense that what is the most valuable here? What is the respect level you have for life itself? What is justice? Thank you.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House: I am rising to ask people to support the pending motion to indefinitely postpone this amendment. When I read the original amendment that was put forward, I have some significant concerns about it. One concern in particular that has not been addressed in the amendment that has been put forward by Representative Madore, it has to do with the fact that not only did the original order, but this amendment, which gives subpoena power that would allow the Human Resources Committee to subpoena any agency that has a contract with the Department of Mental Health across the state, in addition to being able to subpoena staff persons, they would also be able to subpoena people who serve on the board of directors. That means that anybody from Aroostook County to York County that serves on a board of directors or is part of an agency that has a contract with the Department of Mental Health could be subpoenaed. I know there was an effort to narrow the focus by this amendment, but I don't think that has been accomplished.

Secondly, I have read the McDowell Report. By reading the McDowell Report, there is ample opportunity and ample information for the Human Resources Committee to go back and give clear and precise directions to the Department of Mental Health about what they should do at AMHI and with contracted agencies to improve the services for mental health and for people that have mental health issues in this state. In addition to that as Representative Etnier already pointed out, the committee is going to receive hundreds, if not thousands, of additional documents that will outline and give direction to where the committee could go. I would be surprised, but I would also be hopeful that over the next few months, the committee will be able to go through that information and make some clear recommendations to the next Legislature. I think that is a direction that we should point the committee in.

Third, I think the thing that concerns me the most about this particular amendment is that as a

legislator, I am dismayed to come in in a special session and to be asked in two and a half days to discuss and to make a recommendation about confidentiality, about subpoena power and the roles, rights and responsibility of an oversight committee. Subpoena power is not something that I take lightly. It is not something that I would give lightly to any committee, whether it is the committee I serve on or any committee that this particular Legislature has at this point. I believe that we should wait until the next session and talk more clearly about subpoena power and the role of oversight committees.

Lastly, I work as a mental health provider. Everyday I go to work and I work with people who have been to AMHI, BMHI, Jackson Brook Institute, St. Marys and that have been to every institution in this state every day. Some of them have tremendous experience by going through those particular institutions and they allowed them to get on with their lives. If this subpoena power were passed and somebody that I worked with and I was subpoenaed to come before the Human Resources Committee, I could assure you now there would be nothing in those records that would tell you how a suicide would have been prevented or how a particular tragedy may have occurred in a way so to prevent it in the future. What I believe is that if we are really, really concerned about protecting people who have been in institutions or improving the mental health services of this state, we ought to be looking through the Appropriations Committee and we ought to be looking to some of the decisions that we make about funding and through the budget process, not spending countless hours deciding whether or not we want to give subpoena power to a committee to spend endless amounts of time going through paper that ultimately will not tell them the direct facts of what happened in particular situations.

I urge you to vote for the pending motion and allow the Human Resources Committee to move on and do the work that it has been set up to do and to really allow this state to move forward to develop a mental health system and to have the type of institutions that we will be proud of. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is that House Amendment "A" (H-942) be Indefinitely Postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 414

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Carr, Clark, Cloutier, Clukey, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gould, Green, Guerrette, Hatch, Heino, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kilkelly, Kneeland, Kontos, Lemaire, Luther, Martin, Mayo, McElroy, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nickerson, O'Gara, O'Neal, Pendleton, Povich, Richard, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Tripp, True, Tuttle, Volenik, Watson, Winn, The Speaker.

NAY - Ault, Bailey, Bigl, Buck, Cameron, Carleton, Chick, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Gerry, Gooley, Greenlaw, Hartnett, Jones, S.; Joy, Joyce, Joyner, Labrecque, Lane, Layton, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, McAlevey, Meres, Murphy, Nass, Ott, Peavey, Perkins, Pinkham, Plowman, Poirier, Reed, W.;

Robichaud, Savage, Simoneau, Stedman, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Aikman, Barth, Birney, Bunker, Campbell, Chartrand, Chase, Chizmar, Heeschen, Kerr, LaFountain, Lemke, Libby JL; Paul, Poulin, Pouliot, Reed, G.; Rice, Richardson, Spear, Stone, Taylor, Treat, Truman, Tyler, Vigue.

Yes, 69; No, 55; Absent, 26; Excused, 0.

69 having voted in the affirmative and 55 voted in the negative, with 26 being absent, House Amendment "A" (H-942) was indefinitely postponed.

On motion of Representative FITZPATRICK of Durham, Joint Order (S.P. 777) was indefinitely postponed. Ordered sent forthwith.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

SENATE PAPERS

The following Joint Order: (S.P. 779)

ORDERED, the House concurring, that when the Senate and the House of Representatives adjourn, they both adjourn to eleven in the morning on Friday, September 20th at which time the Senate and the House of Representatives shall meet for the purpose of considering possible objections of the Governor to any Bill or Resolve presented to him by the Legislature under the Constitution, Article IV, Part Third, Section 2.

Came from the Senate read and passed.

Was read.

Representative MITCHELL of Vassalboro moved that the Joint Order be indefinitely postponed.

The Chair ordered a division on the motion to indefinitely postpone Joint Order (S.P. 779).

Representative WATERHOUSE of Bridgton requested a roll call on the motion to indefinitely postpone Joint Order (S.P. 779).

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 members present and voting. All 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 pending question before the House is that Joint Order (S.P. 779) be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 415

YEA - Adams, Ahearne, Benedikt, Berry, Bouffard, Brennan, Carr, Cloutier, Daggett, Davidson, Desmond, Dore, Etnier, Fisher, Fitzpatrick, Gamache, Gould, Green, Hichborn, Johnson, Jones, K.; Joseph, Kilkelly, Kontos, Lemaire, Luther, Martin, Mitchell EH; Morrison, Nadeau, Povich, Richard, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Thompson, Tripp, Volenik, Watson.

NAY - Ault, Carleton, Chick, Donnelly, Farnum, Gerry, Gooley, Hartnett, Joy, Kneeland, Lane, Lemont, Libby JD; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, Meres, Murphy, Nass, Peavey, Pendleton, Pinkham, Plowman, Robichaud,

Simoneau, Stedman, Strout, True, Waterhouse, Whitcomb, Winglass.

ABSENT - Aikman, Bailey, Barth, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Chartrand, Chase, Chizmar, Clark, Clukey, Cross, Damren, Dexter, DiPietro, Driscoll, Dunn, Gates, Gieringer, Greenlaw, Guerrette, Hatch, Heesch, Heino, Jacques, Jones, S.; Joyce, Joyner, Keane, Kerr, Labrecque, LaFountain, Layton, Lemke, Libby JL; McElroy, Mitchell JE; Nickerson, O'Gara, O'Neal, Ott, Paul, Perkins, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Richardson, Rosebush, Savage, Spear, Stone, Taylor, Townsend, Treat, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Wheeler, Winn, Winsor, The Speaker.

Yes, 43; No, 37; Absent, 70; Excused, 0.

43 having voted in the affirmative and 37 voted in the negative, with 70 being absent, the Joint Order (S.P. 779) was indefinitely postponed. Ordered sent forthwith.

At this point, a message came from the Senate borne by Senator Amero informing the House that the Senate had transacted all business before it and is ready to adjourn without day.

The Speaker appointed Representative MITCHELL of Vassalboro on the part of the House to inform the Senate that the House had transacted all business before it and is ready to adjourn without day.

The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor Angus S. King, Jr., and inform him that the House has transacted all business before it and is ready to adjourn without day

Representative STROUT of Corinth
Representative HICHBORN of Lagrange
Representative JOSEPH of Waterville
Representative FARNUM of South Berwick
Representative NADEAU of Saco
Representative WHITCOMB of Waldo

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Cloutier who may proceed on the record.

Representative CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I guess as Yogi Berra would say, "It ain't over until it's over." I have a little bit something more important today. Today we will be memorializing and closing the session in memory of one of my very good friends. This will probably and undoubtedly be the last opportunity and honor that I will have to address you my fellow friends and colleagues as a legislator.

More than a week has passed since the catastrophic South Portland shipyard fire on August 27, 1996. Many lives have changed since then. My fellow Nynex colleagues and I were building telephone facilities in the area approximately 100 yards from the immediate area of the explosion. Before the debris hit the ground, we had called up a Nynex Mobile Cellular Center and they immediately dispatched the fire department, the South Portland fire department and police department to the South Portland shipyard.

In those four brief minutes that it took the South Portland fire department to show up, we pretty much cordoned off the area and attempted to maintain a safe area. I want to personally thank the South Portland fire department. I want to personally thank the South Portland police department and the public works department along with many of your fire departments and police departments that helped us, unconditionally, to maintain this catastrophic fire. Their heroic efforts undeniably saved the lives of many. As an elected official of the State of Maine, I wish to acknowledge the professionalism exhibited by all of these departments. As a South Portland citizen, I wish to express my pride in the fearless efforts to those who serve our community.

Unfortunately for all of us, we lost one of our great citizens. It is with deep sadness and regret that one brave man, Captain Bobby Wallingford, South Portland Fire Captain, gave his life to protect our city, citizens and I believe foremost his family. You see, Bobby and I grew up together in Ferry Village. We have remained friends over the years. We have cherished our friendship and we have passed that friendship on to our children. I am not at all surprised that Bob gave as unselfishly of himself in order to ensure the protection of his community and the people that he loved.

The City of South Portland lost a friend who exemplified the ultimate measure of honor. He gave his life in service to others. To his family, I offer my deepest sympathy. To Linda, Rena, Ryan and to Bobby, to his family I say thank you for the strength you have demonstrated in enabling others to try and to understand. The City of South Portland will certainly miss Captain Wallingford. The State of Maine will certainly miss his courageousness and dedication. I will miss Bob as a friend as I will miss all of you, my friends and colleagues. Thank you.

Subsequently, Representative MITCHELL reported that she had delivered the message with which she was charged.

Subsequently, the Committee reported that they had delivered the message with which they were charged.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Adams who may proceed on the record.

Representative ADAMS: Mr. Speaker, Men and Women of the House: I rise to place a few words on the record respecting L.D. 1892, a Resolution, Proposing a Competing Measure under the Constitution of Maine to Implement the Compact for Maine's Forests. In these last few days, our session has made history and however we have voted individually for or against the compact, we collectively have now become a footnote or perhaps an exclamation point in the state's constitutional history.

For the sake of future legislators and future scholars and future citizens who will look back on this night and to us for guidance in what we meant, it is important that we place a few words into the record to state what we did and to state why we did it and to state our understanding of the new history we have just made by creating a new legislative

measure under the Constitution of Maine to implement the Compact for Maine's Forests.

Maine was the very first state east of the Mississippi to adopt the initiative and referendum into its constitution. It is only the 6th state in the United States to adopt initiative and referendum into its state constitution. That took us from 1902 to 1909 to accomplish. Since that time, we have used the initiative, our citizens have used the initiative about 35 times. Only twice, the first time in 1985 and the second time in the last few days, has the Legislature exercised its constitutional option to place a competing measure on the ballot and only once in all our history, that is yesterday and today, have we done so in the light of the Maine State Supreme Court advisory opinion delivered to us on the 5th of September 1996, by creating a new legislative instrument and giving it a new name to facilitate the new legislative processes of submitting to the voters a competing measure to citizen-initiated legislation.

Our purpose is to accomplish and to accommodate the advice of the justices and their September 5, 1996, opinion, while assuring full legislative deliberation of the merits of the proposed competing measure. The opinions of the justices dated 5 September 1996, said, "We conclude that the legislative act of adopting or recommending a competing measure is not an act or resolve within the meaning of Section 16 of Article IV, Part Third of the Constitution." It is not a legislative act having the force of law. The justices went on to advise that, "A simple majority of the Legislature is sufficient to recommend a bill as a competing measure."

The justices noted that the mechanism established under Section 18 is self-executing. It means that the Legislature approves the competing measure and sends to the Secretary of State for placement on the ballot and vote by the citizens. Therefore, it was concluded that a standard act, that is the legislative instrument for direct legislative enactment of the bill was not the appropriate vehicle for that competing measure and when we merely need to approve the measure for the self-executing section of Section 18 to take over, the resolution has been determined to be the appropriate vehicle.

Therefore, the legislative document we have created has been entitled, Proposing a Competing Measure." It is important that we note that Resolution has received equal treatment with the citizen initiated measure. That is, treatment as an act with full legislative policy committee hearing, with legislative debate and with a vote. Our hope is to ensure that the voice of the citizens be heard and that public debate is exercised and that that process continues to a vote. We also hear tonight the long ago voices of our predecessors in these halls and the creators of the Maine initiative and referendum process. Cyrus W. Davis of Waterville, who was publisher of the Waterville Sentinel, Reverend Henry Dunnack, who was later the Maine State Librarian, were among the prominent leaders of the initiative and referendum movement in Maine in those days, along with the Maine State Grange, the infant Maine AFL-CIO and Republican legislators who in those days styled themselves Progressives.

The issue, in 1906, was what they and others perceived as unfair. That is, very low taxation of timberlands that were owned by large woodland companies and power companies. The issue in 1996 is

still timberlands. So our century opens and closes on the same theme, over the same subject, with the same intent that the voice of the citizens be heard. So in opening and in closing our work as a Legislature and in opening and closing Maine's 175th Anniversary year and as we tend down toward our 200th Anniversary and our third century as a state, let us always hope that the voice of the citizens may be plainly heard and heeded by all who may thereafter sit in our seats in this body. God bless the State of Maine.

On motion of Representative HICHBORN of Lagrange, the House adjourned without day at 6:55 p.m., Saturday, September 7, 1996 in honor and lasting tribute to the memory of South Portland firefighter Robert Wallingford, Jr.