

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Fourth Legislature
State of Maine

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January 6, 2010 - March 23, 2010

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ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
SECOND REGULAR SESSION
9th Legislative Day
Tuesday, February 2, 2010

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

Prayer by Reverend Thomas Dubois, Western Mountain Baptist Church, Livermore Falls.

National Anthem by Leavitt Area High School Concert Band, Turner.

Pledge of Allegiance.

Doctor of the day, Janis Petzel, M.D., Hallowell.

The Journal of Thursday, January 28, 2010 was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Fund the Screening and Early Detection Elements of the Statewide Cancer Plan"

(H.P. 484) (L.D. 701)

Majority (10) **OUGHT TO PASS AS AMENDED** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-588)** in the House on January 26, 2010.

Came from the Senate with the Minority (3) **OUGHT NOT TO PASS** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative PERRY of Calais moved that the House **ADHERE**.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Thank you, Madam Speaker. This bill has been before us last session as well. The Health and Human Services Committee had the opportunity to review this. This is a bill that really looks at taking into account the toll that cancer has on the State of Maine and really work for preventing and working with the issue of cancer, which Maine is well above the U.S. average for incidents of cancer, and coming from Washington County, I will say that we have, in some cases, over 200 percent greater than the national average in terms of incidents of cancer. The House members of the Health and Human Services Committee looked at this and looked at our needs to look at the public health issues of the people of this state and felt that this was a very important issue and something we really needed to make a statement, even though we can't do it right now, that we need to look at this for our future. So we're asking to Adhere and also understand that it is a health issue for the people of this state, that this is a priority. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Strang Burgess.

Representative STRANG BURGESS: Thank you, Madam Speaker. Madam Speaker, Fellow Members of the House. I want to thank all of the House members of the Health and Human Services Committee for their support for this issue. I think that you folks heard from me, oh, quite a bit last session, about the importance of cancer. We shared with you some facts along the way and I hope that that increased your knowledge and awareness that Maine's number one killer of our Maine citizens is cancer. We actually are one of the few states that beats heart disease. At this time, there is very little, if any, cancer prevention state money spent to educate the citizens of the State of Maine about the early detection and awareness of our state's number

one killer. I just think that it's appropriate that it should be part of the Fund for Healthy Maine. I didn't want to take funds away from many of the other good health prevention programs that are in there. I had hoped and appealed to all the members of the Health and Human Services to pass this, let it sit in Approps until the final hours of session in hopes that the Fund for Healthy Maine, which does some funny things, it kind of ebbs and flows, it's a little different than the General Fund, that it could be sitting there for that wonderful thought that there might be a few hundred dollars or so that we could start to talk about cancer prevention in Maine. That was my idea and obviously by our actions today, that will not come true this session. But I want to thank everybody that has supported the cancer message and the cancer issue, and I appreciate everybody being so respectful. It's been a fun two sessions here to play pink notes, but I have to warn you, the pinkification of Maine is not done yet. Thank you, and thank you, Madam Speaker.

Subsequently, the House voted to **ADHERE**.

Pursuant to her authority under House Rule 401.1, the Chair temporarily assigned Representative CAREY of Lewiston to seat 45, Representative TREAT of Hallowell to seat 46, and Representative ROTUNDO of Lewiston to seat 47, effective immediately.

COMMUNICATIONS

The Following Communication: (H.C. 268)

STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333

February 2, 2010

Honorable Hannah M. Pingree

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Pingree:

Pursuant to Joint Rule 310, the Committee on Insurance and Financial Services has approved the request by the sponsor, Representative Thibodeau of Winterport, to report the following "Leave to Withdraw":

L.D. 1621 An Act To Increase Consumer Choice
Regarding Service Contracts

Sincerely,

S/Millicent M. MacFarland

Clerk of the House

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: (H.C. 267)

STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333

February 2, 2010

Honorable Hannah M. Pingree

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Pingree:

Pursuant to Joint Rule 310, the following Joint Standing Committees have voted unanimously to report the following bills out "Ought Not to Pass":

Criminal Justice and Public Safety

L.D. 1139 An Act To Require Internet Service Providers To Retain Records

Education and Cultural Affairs

L.D. 1739 An Act To Remove the Requirement That the Annual Budget of a Regional School Unit Must Be Approved at a Budget Validation Referendum

Judiciary

L.D. 1289 An Act To Enact the Uniform Debt Management Services Act

Marine Resources

L.D. 932 An Act To Establish Area Management of Maine's Scallop Fishery

State and Local Government

L.D. 1534 An Act To Ensure That Substantial State Contracts Receive Adequate Legal Review

Transportation

L.D. 1655 An Act To Preserve the 'We Support Our Troops' Registration Plate (EMERGENCY)

The sponsors and cosponsors have been notified of the Committee's action.

Sincerely,

S/Millicent M. MacFarland

Clerk of the House

READ and with accompanying papers **ORDERED PLACED ON FILE.**

The Following Communication: (S.C. 602)

**MAINE SENATE
124TH MAINE LEGISLATURE
OFFICE OF THE SECRETARY**

January 28, 2010

Honorable Hannah M. Pingree

Speaker of the House

2 State House Station

Augusta, ME 04333-0002

Dear Speaker Pingree:

In accordance with 3 M.R.S.A. §158 and Joint Rule 506 of the 124th Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Thaxter R. Trafton of Augusta for appointment as the Commissioner of the Department of Economic and Community Development.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Sandra T. Updegraph of Brunswick for appointment to the Midcoast Regional Redevelopment Authority.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Charles J. Spies of Topsham for reappointment to the Midcoast Regional Redevelopment Authority.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Rita Armstrong of Freeport for appointment to the Midcoast Regional Redevelopment Authority.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Steven L. Weems of Brunswick for appointment to the Midcoast Regional Redevelopment Authority.

Upon the recommendation of the Committee on Business, Research and Economic Development, the nomination of Sally W. DelGreco of Brunswick for appointment to the Midcoast Regional Redevelopment Authority.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Kristen Lavalle of Lisbon for appointment to the School Board of the Governor Baxter School for the Deaf.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Ryan Banger of Woolwich for appointment to the School Board of the Governor Baxter School for the Deaf.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Frances Jacques of Berwick for appointment to the School Board of the Governor Baxter School for the Deaf.

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

READ and **ORDERED PLACED ON FILE.**

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Resolve, To Transfer the Ownership of the Fort Kent Armory from the Military Bureau to the University of Maine at Fort Kent (H.P. 1253) (L.D. 1759)

Sponsored by Representative MARTIN of Eagle Lake.

Cosponsored by Senator JACKSON of Aroostook and Representatives: AYOTTE of Caswell, THERIAULT of Madawaska.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **LEGAL AND VETERANS AFFAIRS** suggested and ordered printed.

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

Sent for concurrence.

Resolve, Directing the Department of Transportation To Place Signs at the Interstate Exits in Pittsfield Directing Motorists to Maine Central Institute (H.P. 1254) (L.D. 1763)

Sponsored by Representative FITTS of Pittsfield.

Cosponsored by Senator MARRACHÉ of Kennebec and Representative: PIOTTI of Unity, Senator: WESTON of Waldo.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **TRANSPORTATION** suggested and ordered printed.

REFERRED to the Committee on **TRANSPORTATION** and ordered printed.

Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

Robert Lefebvre, of Gorham, the Fire Chief of the Gorham Fire Department, who has been named Fire Chief of the Year by his peers, the Maine Fire Chiefs' Association. Fire Chief Lefebvre began his career in 1968 with Westbrook Rescue while he was a Westbrook High School student. He became a full-time Westbrook firefighter in 1971, following in the footsteps of his father, who was with Westbrook Fire Department for 28 years. Fire Chief Lefebvre was appointed as Gorham's part-time call fire chief in 1984 and became the town's full-time fire chief in 1987. We congratulate Fire Chief Robert Lefebvre on his receiving this well-deserved honor, and we wish him continued success in the future;

(HLS 857)

Presented by Representative KNAPP of Gorham. Cosponsored by Senator BARTLETT of Cumberland, Representative SANBORN of Gorham.

On **OBJECTION** of Representative KNAPP of Gorham, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Knapp.

Representative **KNAPP**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Chief Robert Lefebvre is known for his lifelong dedication to his career as a firefighter. He has said that he has never had a day when he awakened and didn't want to go to work. He considers himself fortunate because he loves his job.

It's rare to hear someone so devoted to their work and passionate about the job. It is this level of commitment that has pushed Robert Lefebvre to bring the Gorham Fire Department to the standard that it is at today.

When I was a Town Councilor in Gorham and Bob would request equipment, I knew that the price-tag would be very, very hefty; but it was because he wanted the best quality equipment for his firefighters. Safety and good training are his number one priorities. He has been on the State Advisors Committee for Maine Fire Training and Education. He spent five years teaching at Southern Maine Community College in the Fire Science Program, instructing the Fire Administration course.

Because of Bob's dedication to fire safety, Gorham has enjoyed a strong ISO rating, which has enabled Gorham citizens to save money on their homeowners insurance. He continues to look for innovative ways to save money for Gorham taxpayers while maintaining an excellent level of service. This attribute is exemplified by his work in creating the successful student live-in program, which has attracted young firefighters to Gorham. Many have stayed in Gorham and the neighboring vicinity.

My first experience watching Bob work firsthand was on Memorial Day weekend. I heard two explosions. My husband came rushing in, I called 911. When I went outside the attached garage of my neighbor's house was totally engulfed in flames. Bob, his crew of workers—being a holiday weekend it was amazing to see how many showed up—under his direction the house was saved, which seemed impossible seeing the amount of flames.

Robert Lefebvre is an honorable person who is a dedicated advocate for the needs of the Gorham Fire Department and the entire Gorham Community. I am glad to know that he has received the much deserved honor of Cumberland County Fire Chief of the Year from his peers. Thank you.

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

Representative **HASKELL**: Thank you very much, Madam Speaker. I'd be remiss if I didn't stand up, having lived in Gorham for 30 years, having also served on the Town Council as Representative Knapp did, and watching Bob Lefebvre come forward to that group and to our community over and over and over again, arguing and advocating for sprinklers to be installed. I can't tell you how many lives Bob has saved because of his steadfast advocacy. So while the award may be appropriate, I know he's as pleased and should be honored for the many lives that have been saved because of the dedication that he's had to fire service. Thank you.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

Recognizing:

Maine Wildlife Park, in Gray, upon its receiving a 2010 Commitment to Tourism Growth award given by the Maine Office of Tourism. The award recognizes those in the tourism industry that lead by example and demonstrate commitment to Maine as a world-class tourist destination. The Maine Wildlife Park is owned and operated by the Department of Inland Fisheries and Wildlife and promotes an understanding and awareness of the wildlife indigenous to Maine, conservation and habitat protection programs and projects of the Department of Inland Fisheries and Wildlife. We congratulate Maine Wildlife Park on its receiving this award;

(HLS 859)

Presented by Representative AUSTIN of Gray. Cosponsored by Senator DAVIS of Cumberland, Representative BRYANT of Windham.

On **OBJECTION** of Representative AUSTIN of Gray, was **REMOVED** from the Special Sentiment Calendar.

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

Representative **AUSTIN**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I am so thrilled to be able to stand today and recognize this award. As some of you may recall, the park in my hometown of Gray has been an integral part of my life. The IF & W staff, with absolute collaboration from the group called The Friends, have worked together continuously on this initiative, and the volunteers actually constitute 40 percent of the labor that goes into the success of the park. This last summer was a very, very wet summer, as you all well remember, and, in view of that and outside of that, the park still managed to take in 10 percent increase in their gate. They have consistently, over the last two and three seasons, been above in their growth and, in these tough economic times, that's outstanding.

The tourism award for Commitment to Tourism Growth was given last evening at the Governor Hill Mansion. Director Pat Eltman did an outstanding job in her oversight of this signature event. She gave special attention to detail in replicating the dinner last evening and the ceremony, to the first dinner at the Governor's mansion. I felt truly honored to be present to see the park receive their award from the Chief Executive.

I know many of you have mentioned to me over the years some form of memory from your childhood or just taking your own children to the park. As a matter of fact, two weeks ago, when the current Miss Maine, who is from Gray, was here to sing to us the "National Anthem", she mentioned to me afterward that so many of you had come up to her and mentioned, again, your memories and your association over the years of the park.

As always, I invite you, when we're out of session and when the park opens in the spring, to please come out and visit us, especially on May 1st which is Maine Moose Madness Day, so keep us in mind when you want to take those grandchildren, those children and get out for some beautiful fresh air and see our wonderful display of the native animals. Thank you very much.

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

Representative **BRYANT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I, too, rise in support of the Wildlife Park in Gray. It started off as a little pheasant farm and it's no longer a farm. It is a park and it is one of the gems of Maine. I want to put a shameless plug in. You need to go to the park in Gray and take a look at just what they've done there, it is just amazing. I won't take up a lot of your time, but again, we are very proud of our gem in Maine and want you all to come and visit it. Thank you very much.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 473) (L.D. 659) Bill "An Act To Remove the Sales Tax on Watercraft" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-597)**

(H.P. 1005) (L.D. 1449) Bill "An Act To Expand Tax Incentives for Visual Media Productions" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-598)**

(H.P. 1062) (L.D. 1513) Bill "An Act To Authorize Municipal Officers To Resolve Road-naming Disputes" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-596)**

(H.P. 1074) (L.D. 1524) Bill "An Act To Ensure Equity in Unemployment Compensation Claims" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-594)**

(H.P. 1120) (L.D. 1582) Bill "An Act To Bring the Laws of the Maine Public Employees Retirement System into Compliance with the Federal Internal Revenue Code" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-595)**

(H.P. 1127) (L.D. 1589) Bill "An Act To Authorize Sanitary Districts To Waive an Automatic Sanitary District Lien Foreclosure" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-600)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(H.P. 1069) (L.D. 1520) Bill "An Act To Allow the Board of Dental Examiners To Grant Permits to Qualified Individuals To Practice as Dental Residents"

(H.P. 1099) (L.D. 1557) Bill "An Act To Raise the Indebtedness Limit of the Eagle Lake Water and Sewer District"

(H.P. 1110) (L.D. 1572) Bill "An Act To Correct Errors in the Laws Relating to Unlicensed Practice and Other Provisions of the Professional and Occupational Licensing Laws"

(H.P. 438) (L.D. 624) Resolve, To Implement Certain Recommendations of the Report of the Governor's Task Force on Expanding Access to Oral Health Care for Maine People (C. "B" H-590)

(H.P. 1019) (L.D. 1464) Bill "An Act To Amend Licensing, Certification and Registration Requirements for Health Care Providers and Other Facilities" (C. "B" H-593)

No objections having been noted at the end of the Second Legislative Day, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

BILLS IN THE SECOND READING

House

Bill "An Act To Authorize an Alternative Calculation of the Property Growth Factor for Municipalities with Exempt Personal Property"

(H.P. 575) (L.D. 839)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Paper was **PASSED TO BE ENGROSSED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, January 28, 2010, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass** - Minority (6) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Join the Interstate Compact on the National Popular Vote"

(H.P. 49) (L.D. 56)

TABLED - January 26, 2010 (Till Later Today) by Representative TRINWARD of Waterville.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

Representative TRINWARD of Waterville moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Representative **TRINWARD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I am very proud to be able to work on this bill. I remembered when it was sponsored back in my first session by the Speaker and I'm grateful that she did that, that we were able to, because the bill raises some very basic but important questions about our elections.

I have thought a lot about the mechanics of the proposal and I stand before you with unwavering support for LD 56, the National Popular Vote. I support the bill because I believe in two underpinnings of the democratic process. Number one, I believe that every vote should be equal. Number two, I believe that if you get the most votes you should win. When people ask me about this bill, I find it very easy to explain. I tell them I believe a vote in

Maine should count just as much as a vote in Florida. People understand this and I ask those of you that agree to please keep an open mind as we discuss this in full today. And then there's the idea of guaranteeing the person with the most votes will win. Is this such a radical idea? People don't think that this is a big problem in today's system but, in fact, 1 out of 14 elections have gone to the second place candidate. As we help other countries set up democracies, it is amazing to me we are only now getting around to fixing our own.

Let me explain the way that this bill works because, I think, this is where some of the confusion comes from. LD 56 adds the State of Maine to a pool of electoral votes. Once the pool reaches 270 electoral votes, then the compact goes into effect because that would be enough votes to elect the president. At that time the states in the pool would award their electoral votes as a block, not the candidate that wins their own state but to the candidate that earned the most votes in all 50 states. In other words, when the pool has reached the critical mass, has enough votes to elect the president, then this agreement would kick in and the Electoral College would guarantee the presidency to the person who won the most votes. So far Hawaii, Washington, Illinois, New Jersey and Maryland have adopted this bill. Together they have 61 electoral votes. The National Popular Vote is already almost a quarter of the way to making the popular vote for president a reality. For the states that have already adopted the bill, nothing changes until the threshold of 270 electoral votes is reached. In the four years the National Popular Vote has been pursued in legislatures across the country, the bills have been introduced in all 50 states. In total, 29 chambers in 19 states, including our own state Senate, have passed this bill. In our case, the House just ran out of time before we could act on Representative Pingree's bill in 2008.

Under this plan, the Electoral College goes from being a rubber stamp in every state to being one big rubber stamp for the country. Once enacted, the Electoral College would guarantee that the candidate with the most votes would go to the White House. Again, I don't mean the candidate with the most votes in the states that have adopted this bill. I mean the candidate with the most votes in the country. The pool of electors needed to pass this bill would be pledged to the candidate who earns the most votes in 50 states and the District of Columbia. I am sure we'll have a very vigorous debate today and I hope that all of my colleagues will listen closely to the details. There have been a lot of questions raised through the debate and some of them have certainly tried to muddy the water. But most of us who have studied the bill in detail remain confident that it is a good bill and it is a bill of great significance. For all of the noise that has surrounded this debate over the last few years, nobody has convinced me that a vote in Maine should not be worth more or less a vote anywhere else. It doesn't matter if you live in Florida, Ohio, Maine, New Hampshire, Boston or Seattle. A vote is a vote and the candidate with the most votes should win the election. That is, after all, how all of us arrived here today. Thank you very much, Madam Speaker, and I look forward to hearing the debate continue.

Representative FITTS of Pittsfield **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative **FITTS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I don't want to belabor this debate because I think it can and will probably go on for quite some time, but I would like to lead in with this is not a

pool that the State of Maine should be swimming in. We are a small, rural state that will not be relevant in future presidential elections if we are part of this compact. It's simple. There are a million people in Maine. There are over a million people on some city blocks in New York City. If you were running for president, where would you campaign and where would your interest lie, and it surely would not lie in the State of Maine. That in itself is enough to vote no on this bill and reject the Majority Ought Not to Pass, or Ought to Pass, excuse me. I only wish it was the Majority Ought Not to Pass.

There are many aspects of the mechanics of this compact that are flawed. You will hear repeatedly many of those flaws. First off, this compact sets up for a plurality to select the President of the United States, not a majority. In various countries where we have worked to set up democracies, we also include runoffs as a result of the first pass of a vote. This compact has none of that in it. I have already said small states suffer. We would be in a position to be not part of an election. There are no accounts for recounts in this proposal. Are we going to have nationwide recounts in order to determine how we resolve an election? There's no way to resolve that in this. We have issues with voter qualifications that vary from state to state. Those aren't accounted for here. Most importantly, in my mind, is the constitutionality of this whole proposal. If we want to move to a system of one vote, one person, then we need to change the Constitution, not circumvent the process through some scheme that's ill thought-out and full of holes. So I would ask you to follow my light and the light of many of my colleagues when we vote against the Majority Ought to Pass. Thank you, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in support of this bill. You know that I believe that every vote should be equal, and I recognize that a strong majority of my constituents feel the same way. I am here to represent them, all of them.

In 2000, George W. Bush won the election, although the fact that he didn't earn the most votes. In 2004, if Kerry had switched 60,000 votes in Ohio, he would have won the Electoral College even though he was 3.5 million votes behind Bush. Something is wrong with this system. I believe a popular vote is the answer. A vote in Maine ought to be worth the same as a vote in Ohio, which is why I support this bill. We believe a vote in Maine should count as much as a vote in Florida or New Hampshire. In the last month the 2004 election spent more money advertising in Florida than in 46 states combined. Sixty-six percent of their money spent in 2008 general election went to influence votes in six states. Ninety percent of all campaign advertising money and visits went to 15 states.

The National Popular Vote Advisory Board includes former U.S. Senator Birch Bayh, a Democrat; David Durenberger, a Republican; Jake Garn, a Republican; as well as Congressman John Buchanan, a Republican; John Anderson, Republican and Independent; and Tom Campbell, a Republican of California. Thank you, Madam Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Lyman, Representative Wagner.

Representative **WAGNER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in opposition to this motion. I ask first that we consider the source of the proposal. It is my understanding that a gentleman by the name of John Coza has financed this initiative. He has firsthand knowledge of the Electoral College because my understanding is

that he has served in it twice, once in 1992 from California when he cast the electoral vote in favor of Bill Clinton, who won the presidency with 43 percent of the National Popular Vote, and again in 2000, when the result of that election was a little bit more controversial. While I applaud Mr. Coza's civic engagements and his desire to affect positive change in our political system, I believe these efforts are misdirected. I read in an interview, in which Mr. Coza was directly asked, isn't this just an end run around the Constitution? He replied yes and an end run is a legal play and, indeed, it is a legal play. That is based on misdirection.

Madam Speaker, Ladies and Gentlemen, I ask you to consider if we applied the logic of this proposal to our committee system, what would be the effect? There would no longer be any divided reports, such as LD 56, 7 to 6 from the LVA Committee. It would transform every vote into a 13 to 0 pronouncement. Madam Speaker, Ladies and Gentlemen, I ask you to consider the purpose of interstate compacts, binding contracts. Their main purpose is for states to share natural resources, to coordinate for purposes of transportation, communication, commercial reasons, not for political ends. I also ask that we consider Article I, Section 10, paragraph three of the United States Constitution that requires the consent of Congress for any interstate agreement. And I know of no enabling legislation at this point and I wonder if Congress would accede to this measure in the future. Now this is not an apology for the Electoral College. It was hastily constructed by the framers at the very end of the Constitutional Convention when the delegates were anxious to get back home. It sounds a bit familiar.

Let us please consider that some have argued that the Electoral College was a reflection of the framers' attitude toward the people. I would argue it's more a reflection of the communication systems, or lack thereof, in 1787. The framers reasoned as follows: How would a voter in Virginia have a sense of a candidate from Massachusetts to give a vote to that person with respect to their fitness for the highest office of the land? Instead the Electoral College was constructed so that that voter in Virginia would choose someone from his own state who had served in previous Congresses, who had a sense of leaders from other states, who knew them, knew their capabilities and would be able to make a decision on their qualities for the presidency.

Now the definition of democracy that the framers held is not the definition that we hold today. Indeed it has evolved. But the framers, I believe, were not elitists, nor were they demigods. They were human beings who volunteered to do extraordinary things against tremendous odds, just like us.

The Electoral College is in need of either abolition or reform, but I ask that we follow the procedures of Article V and go through the Constitution instead of around it. While this is an intentionally time-consuming, arduous process, if there is a groundswell of support for this, it will be achieved. I ask that we consider the Seventeenth Amendment as a model, the direct popular election of the United States Senators. Please consider the obstacles that measure had to overcome. Two-thirds of an appointed Senate had to agree to its own transformation into an elective body. Three-fourths of the state legislatures had to agree to relinquish their authority to appoint U.S. Senators. One caution, however. If a twenty-eighth amendment was to abolish the Electoral College outright, would there be language in there that would require a majority of the popular vote? If so, a runoff election scenario is possible. If it is by only plurality, would there be a bar set that would be acceptable with respect to awarding the national office of this country for someone who had 30, 35 percent of the popular vote nationally.

Madam Speaker, Ladies and Gentlemen, I think what would be most appropriate and a fitting tribute to one particular member of this body would be for us to modify and apply a well-known phrase in political history. As goes Maine and Nebraska, so the rest of the country should go. The winner take all approach employed in the other 48 states should be replaced by the method that we use here with respect to the award of electoral votes. That would put every congressional district in play. That would require campaigning throughout the country, a truly national campaign for the national office, and I think, Ladies and Gentlemen, that is our goal, that is our common goal. It's where our efforts should be directed. Thank you, Ladies and Gentlemen. Thank you, Madam Speaker.

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

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. First, let me just say that some have said that this is an end run around the Constitution. It is not. There are ways in which you can do things under the system, and I just want to remind members of the House that every now and then the national Congress does things to us that does not lay out in the Constitution. What have we done with the drinking age to 21? They didn't use their power the way it was intended. They basically said you raise it as a state and if you don't we cut your highway funding. I can go on and give hundreds of examples of that, how the Congress has done that to states. And some would suggest that because one person supports this concept and has money, that this is a problem.

Let me remind you about U.S. history. The 55 men, who met in Philadelphia with the exception of one, were wealthy. They were not poor. I might point out that the only one who wasn't just happened to be a Martin. His name was Luther Martin, he was from Maryland. He was a smalltime farmer. But all the others had money. And so I'm going to bring you back to Philadelphia for a moment and talk about the Constitution and those that were there. Keep in mind that their goal was to make sure that the masses did not control. They created a Senate that would be chosen by state legislatures and a barrier between the masses and the voters and them. When it came to the election of president, we all know what they chose and the method they chose and why they chose it, and every state could decide how to choose those electors and that's what we would be doing here today. Keep in mind that most of the money that is spent in campaigns for president occurs in about 16 states.

One of the thoughts that I was thinking about through all this process, if we really want to be a player in this compact, eventually, down the road as we move forward, is to have the New England states merge together and have all the electoral votes go to a winner and the campaigns across for president would switch, its where the money would go, because right now you know where it is, and its being and will continue to go there.

We talked about, a little while ago, someone talked about foreign countries. Well one of the things I've done as a result of my being bilingual was to, on behalf of the State Department, go to countries in Africa that were changing their system of government. I remember one in particular, Madagascar, when one of the persons who had just been elected to their national congress said to me in French, and I had a little trouble because he spoke a lot faster than I could quite get it at that point, we know how to choose our president, you don't. It took me a little while and then it dawned on me. He said don't even try to explain this Electoral College business because it's just a way to circumvent the will of the majority. It's an interesting approach from someone from another country telling me about our system.

Also keep in mind a little known fact, probably for most of you in this room, that when and after the passage of, or the signatures I should say, of the members of the Constitutional Convention in Philadelphia, it went out to the states for ratification. The ratification in Massachusetts was very, very close, and you may be interested to know that every single delegate from the district of Maine voted against ratification of the U.S. Constitution. You ought to go back and read what they said in that debate. They were concerned about the loss of their power and giving it to a central government and they would not have the ability to choose their leader.

Now some might say, let's use the system and let's go through the constitutional process that is allowed. You and I know that will never happen. Matter of fact, some of you may know that President Nixon pushed very hard to change this system. Guess where it went through? It passed the House of Representatives in Washington without a whimper, I shouldn't say without a whimper, but not unanimous but pretty close, and guess where it failed? In the United States Senate. Keep in mind that the United States Senate is controlled by very few people. Let me repeat, the United States Senate is controlled by not a majority of citizens in this country. If you take the population and just figure out what you need to get to 51 Senators, and take the population starting with the smallest state, its Alaska, you'll quickly understand why we have a problem in this country and we'll continue to have it. You may know that we also, in *Reynolds v. Sims*, the United States Supreme Court said that state senate had to be based on populations, not the way in which we had it, even though, of course, the United States Senate continues to be based on two per state. Some of us in this room would love to have two state senators from each county. Imagine who would control the politics of Maine.

So when you lay out the scenario of this compact, what it brings to you is the ability to be able to get up after the election and say the majority wins. It does mean that, in certain instances, our votes in Maine could well go for the other party, but it will be for the victor, not for the person who won with less than a majority of the votes. So as you look through this process and as I think back of something that I was a player in many years ago, and that was to suggest and figure that Maine might just lead the nation, and that was to say there should be one electoral vote for each electoral district and then two for the Senate. So if one congressional district went one way that vote would go that way, the second one would go the other way, and we thought 30 years ago that this was the way to go. Well it took 20 years for anyone to follow us. So much for Maine leads. Nebraska did follow, and, by the way, since President Obama carried one congressional district of the three in Nebraska, there is a bill pending before the Nebraska Senate, because they don't have a House, to abolish that system. So we will be the lone ones left. No one is going to follow us. Clearly that's not in the cards. And so if you believe, if you believe that the majority should vote, the majority vote should carry the day, this is a mechanism by which you can accomplish that. That's really all there is to me in the long run, do you believe the majority should decide, and, to me, the answer is clear. You can come up with all kinds of solutions and ways and reasons, but clearly the Constitution says that each state shall decide how the electors shall be chosen and how they shall vote, and I hope that when you think about this today that you will vote for the Majority Report of the committee. Thank you.

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

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I want

you to remember what you are voting on when we actually vote to cast our votes on this bill. This bill is not about whether Maine is supporting a constitutional amendment to elect the president by national popular vote. This bill is not a resolution to Congress to start the process to amend the Constitution to elect the President of the United States by the national popular vote. This bill, what you are voting on, is about Maine entering into a compact, a compact which is a contract, a compact that must be voted on exactly word for word by all of the states that enter into the compact. Not a single word can be changed by a state on this compact until they reach a minimum of 270 pooled electoral votes.

By now you've probably figured out I am on the Minority Report. I am a member of the Legal and Veterans Affairs Committee and I am on the Minority. I did not support this. I did not support this in the 124th session; I did not support this when it was brought up in the 123rd session when we did it. This compact, as you've heard, does not take effect until the 270 votes is attained. Maine does not need to join this compact now.

You've been told that 29 chambers passed this vote. What you weren't told is that only five states have agreed to this. This is not something that everybody is putting before their chambers and voting on. Twenty-nine states have not passed to enter into this compact here. This item has been visited several times by the Legal and Veterans Affairs Committee. We had it before us last year. Actually, I was on the Majority Report at that time because the Majority Report was Ought Not to Pass. It was later reconsidered and the vote was changed so it switched, which put me now on the Minority, which is a place I'm not familiar with. Maine, as it's mentioned, is unique. Maine and Nebraska are the only two states that split their electoral college. We should leave Maine unique.

I'm looking at a quick response to opposition arguments here that was passed out in regard to the National Popular Vote for people to respond to basically what I'm saying. One is if somebody says the National Popular Vote is unconstitutional, then tell them that our lead author in Maryland is a constitutional lawyer who graduated cum laude from Harvard and was the editor of the Law Review. This does not convince me. What convinces me would be the response from Representative Herb Adams letter to our attorney general here. What would convince me, I'm reading from a letter here from the University of Maine from Mark Brewer, when he states that there is serious questions regarding its constitutionality and in my opinion it will be highly unlikely to withstand the inevitable legal challenges it will face. He ends his four page letter in opposition to this bill by saying Maine's electoral vote should rightly be determined by the voters of Maine, not those anywhere else.

They also say that the National Popular Vote is not an end run around the Constitution, that the right way, it's a constitutional amendment we're saying. They're saying that all of our major changes to the Constitution came from the state, such as women's suffrage, but that's true, but they did not come in the form of a compact. They came in forms of constitutional amendments to the Constitution, which is what I feel is the right way to go.

They also, if voters claim, say that they'll be upset if their electoral votes are not cast for the candidate supported by their state, then tell them that watching the returns on election night, voters are first and foremost interested to see if the candidate they voted for won the election. Whether or not their candidate won their state is a secondary concern. I would take objection to that. I feel very much in tune with what the voters of Maine state. They also say in here that if people put out the argument that this is an effort by the Democrats who were bitter over the 2000

election with Gore, tell them that the second place candidate would have won 5 of the last 12 presidential elections, with a shift of a few thousand votes. That tells me 5 out of the last 12, we would have had no Clinton, who I adore; we would have had no Reagan, who others may adore; I say we would not have had some very great men. I would like to say women, but I can't.

I also want to say in regard to the argument even on pooling our votes, even on the New England argument that we would be a player. Again, Maine only has four electoral votes. The candidates are going to go where the votes are and where they need it, whether it's in Maine or whether it's in Iowa or whether it's Massachusetts or California. That's our job to get the candidates here to run on that.

I also want to read to you from another University of Maine law professor, Ronald Schmidt, who actually was a professor of mine in a very interesting class he taught at USM called "Lying in Politics". I thought it was going to be current but it was basically all about Plato and Aristotle, which shows that there is some connections for the past. He states in his letter a national majority system, such as the one described here, would remove one of the few markers of independent Maine opinions regarding candidates and policies, and render not nearly our four electoral votes but the weight of our state's attitudes and perspective all but irrelevant. I believe LD 56 is a problematic step for the United States and a great mistake for Maine.

So again, I don't think Maine should be part of a block of 270 votes. Maine's vote should count to who Maine people voted for. If you want a National Popular Vote, this is not the vehicle to do it in. I urge you to vote against the pending motion on the floor.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Harvell.

Representative **HARVELL**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This is not a Democrat, this is not a Republican issue. Representative Martin hit it exactly right. This is a small state/large state issue. The reason why the delegates in Maine, in 1787, did not support these measures is because they were part of Massachusetts, a large state. The reason that the Congress did under Nixon's plan is because that's where the popular vote is represented. The Senate, which was the compromise position in 1787, of course went against it. Why? Because they are represented by all states, many of them are small. They say that in politics timing is everything. This bill is a little late. It should have been here in 1787 when we were part of Massachusetts, which was a large state.

The idea that there's been 14 elections, I mean 1 in every 14 elections, that this has happened to in presidential history is just out rightly wrong. There are five times that this has happened in U.S. History. Three there were mitigating circumstances. In 1800 there was no Twelfth Amendment; in 1824 there was a four way presidential race that Andrew Jackson lost; and in 1876 Rutherford B. Hayes won because of the details of Reconstruction. Only in 1888 and 2000 has this been an issue. If you want to be counting hanging chads across 50 states in this country, pass this bill. Ten times in the last century the will of the people of Maine would have been denied by this, five times since the Second World War. In 1948 we voted for Dewey, in 1960 we voted for Nixon, in 1968 we voted for Humphrey, in 1976 we voted for Ford, and in 2004 we voted for Kerry. All would be nullified out rightly.

There is 34 cities in this United States that have over 500,000 people. They represent the population centers. There is 9 million, 9 over 1 million. Maine has 1.2 million. This was an act that would relegate us into insignificance. Why would anyone come here? And if you don't think this has happened before,

consider this. For over 100 years, from the post-Civil War until the end of the Second World War, the southern part of this country was a one party system. It also had something else that went with that lack of competition: abject poverty. They were taken for granted by the Democratic Party because they always went Democrat. Why? Because we were the party of Lincoln and my daddy fought Lincoln, or my granddaddy, and no Republican candidate ever went there either. He wasn't going to win. So what happened? Abject poverty went with it and they were taken for granted. The south's rise, one might add, happened because there is party competition, to some extent, there now, unlike what there was for over 100 years. In 1884 James G. Blaine, who that house is named for across the street, was Maine's son. If this had passed, he wouldn't have got Maine's vote. We'd be voting against our own native sons.

Most importantly, as someone noted, prior to I think it's about 1960, Maine used to hold its state elections in September. This is where the phrase "as goes Maine, so goes the nation" started. It started in 1840, when we elected Edward Kent, a Whig, for Governor, prior to William Henry Harrison's election, in that election of 1840. The phrase actually came quite more pronounced after 1888 when we voted for Benjamin Harrison.

On our flag it says *Dirigo*, the Latin phrase for "I direct" or "I lead". If we vote for this our days of leading anything are over, our days of directing anything are over. So this is not about Democrat or Republican. This is about rural, small states having some significance in future elections. I urge you to vote against this.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Carey.

Representative **CAREY**: Thank you, Madam Speaker. I rise in support of this motion and ask you to support the National Popular Vote. It's been said by one of our opponents today that if we want to do one person one vote, and I'm paraphrasing, that there is another way to do it, that this is a backdoor to constitutional change. The first thing that we did as a member of the Legislature was to vote to interpret and uphold the Constitution of the United States. That Constitution says that the states, the legislature shall determine the method of choosing the electors of the states. So this is not a backdoor, this is exactly what was anticipated by the founders.

Imagine another one of our voting situations where it wasn't one person one vote. What if we were choosing the Governor next year, or this year, what if the voters of Androscoggin, Cumberland and York chose the Governor? We'd be rightly outraged. I'd be outraged and I'm from one of those counties. That's not right. What if the representatives elected us to come to the Legislature and the first act of the Speaker was to determine if your seat is divisible by seven you shall have a vote? Everybody else just kind of gets to sit and watch. We would be outraged. This is a constitutional way to make sure that everybody, everybody in this country is part of the presidential election.

Now why does it matter? So it's been said, well, we'll get presidential candidates to come visit us or we'll never get presidential candidates to come visit us, or it's about where campaign spending is done, and all of those are important things. This matters because we're choosing the leader of the country and the choice that the leader of the country should be done on the issues that matter to Americans. What did we hear in the last presidential election? We heard a lot about Cuban foreign policy; Florida. We heard a lot about ethanol; Iowa. We heard a lot about clean coal; West Virginia and Ohio. We didn't hear about fair and equal truck rates on Maine roads and the interstates, we didn't hear about that. We didn't hear about a wind energy policy

that had some teeth in it. We didn't hear about an Ag policy that didn't support large farmers but it supported small farmers and organic farms, and we didn't hear about how health care is different in a rural state than it is in a large, urban area where there are a lot of hospitals. These are not issues that are talked about in a presidential election and that's not right. The President of the United States should be chosen by the people of the United States, that's why I'm supporting this bill. Thank you very much.

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

Representative **CROCKETT**: Madam Speaker, Distinguished Members of the House, the rest of us. I rarely find myself speaking on the same side of an issue as the great Representative and orator from Saco, Representative Valentino, but when I do I find myself in good company.

I, like many of the members of this body, received letters in support regarding the National Popular Vote and so I conducted some research into the matter on behalf of my constituents. I was surprised to find that once I explained the details of this interstate compact, they each emphatically asked me to vote against this bill. The reason for their change of heart was based on their desire to make every citizen's vote count in a presidential election which, despite its name, the National Popular Vote does not achieve. Most of those who contacted me believe the presidency should be decided by a majority of the popular vote and the Electoral College is an archaic institution. The fact we now possess the technology to account for every vote gives this position some merit. Again, however, the National Popular Vote does not achieve this end.

As I explained to the citizens who reached out to me, the National Popular Vote is an interstate compact, whereby the member states agree that whatever presidential candidate receives the most total votes, a plurality, in those collective member states, all the combined electoral votes go to that candidate. The compact does not go into effect, as it's been stated here, until the member states combine for a total of 270 electoral votes, the amount required to elect a president.

There are several problems with this, the first being that not every vote does count. If a certain number of states join the compact to add up to the 270 electoral votes, which could be as few as 11 states if the right combination of states signed on and not all other states do in fact sign on, then the citizens of those nonmember states need not cast ballots for the presidency because the compact states will determine the outcome regardless. This arrangement is contrary to the every vote counts mantra that most voters of this bill desire, as well as being, in my humble opinion, unconstitutional, which is probably why of the five states which have joined, two, Maryland and New Jersey, are attempting to repeal their law. It makes you wonder if the appropriate name for the compact should instead be the Interstate Compact on the Popular Vote for a Few Select States.

Second, the United States Constitution speaks to the election of a president, in Article II and again in the Twelfth Amendment, with two centuries of precedence to back this process. This means the Constitution is not silent on the issue, that legislation concocted by a few people and possibly enacted by less than half the states is unconstitutional. Some may point out Article II of the U.S. Constitution establishes each state shall appoint their electors in such a manner as the legislature may direct. However, these same people are unlikely to point out the detail with which the Twelfth Amendment lays out the process or the contingency if a majority is not realized in the Electoral College. This compact would have essentially circumvented the Twelfth Amendment by nullifying it without another amendment to the

Constitution, which is an odd process in to of itself.

Additionally, there is also a question of whether this violates the idea of federalism and state sovereignty, which has been with us since the birth of our great nation. When the states came together to create the Federal Government it was determined that each state would have a voice in determining the president. If this compact ever came into effect, it would mean the rights of non-compact states would be trampled and the sacred pact among the states which formed our beloved Constitution would be broken.

Third, if in fact you support the demise of the Electoral College and believe the presidency should be determined by a majority not a plurality of the popular vote, you have recourse. Call your U.S. Senator or Congressman. Ask them to support an amendment to the United States Constitution, for this is the only proper forum to change or modify the method of electing a President of the United States.

Maine should not participate in an interstate compact. It skirts a clearly established practice of electing a president with 200 years of precedence. We may not always be pleased with the results of an election but our commitment to the rule of law should come first. Demonstrate that today; please join me in voting against the passage of this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Langley.

Representative **LANGLEY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I also rise to oppose to LD 56 "An Act to Join the Interstate Compact on the National Popular Vote", and bear with me if some of the things have been said before. Editing on the fly is not a strong suit that I have.

The Electoral College was established by the founding fathers as a compromise between the election of the president by Congress and election by popular vote. The functions of the College of Electors in choosing the president can be likened to that in the Roman Catholic Church of the College of Cardinals selecting the Pope. The structure can also be traced to the Centurial Assembly system of the Roman Republic. In the Electoral College system the States serve as the Centurial groups and the number of votes per State is determined by the size of each state's delegation. The similarities between the Electoral College and classical institutions are not accidental. Many of the Founding Fathers were well schooled in ancient history and its lessons.

The Interstate Compact on the National Popular Vote promotes the election of the President and Vice President by direct popular vote and works to abolish the Electoral College.

As other Representatives have brought into question of constitutionality, its Section 10 of Article I, this compact cynically by-passes the amendment process set forth in Article V of the Constitution, where it takes two-thirds of both houses and then three-fourths of all the state legislatures to amend the Constitution. This compact would result in the chronic election of candidates, who encouraged by splinter parties, are supported by only a minority of the popular electorate, who garner the most votes and by no means a mandate from the people. A prolonged run-off system would have to be developed, which this bill does not address, under which two minor party candidates enjoying little overall popular support can win the presidency despite being opposed by the vast majority of the electorate.

Do you see the irony in the end run attempt around the Constitution? Forcing a system on the rest of the country against their will, without them even having a vote? Here's irony for you on a local level. On January 28th, Channel 6 had a news story about the City of Portland and their Charter Commission is

considering moving away from a popular vote to another system for electing their city council because, in the news story, "less than desirable candidates" can get elected with 30 percent or less of the total vote. How is it the fine folks in Portland can see the reality?

How can there be support on the one hand for a National Popular Vote while at the same time complaints about citizen's initiatives and citizen's vetoes? How do we reconcile the claim that we were elected to the state legislature to do the work outlined in the Constitution and then vote for an end run on the Constitution? We have a process in our Constitution that provides for changes of this magnitude. Amendments to the Constitution are not easy and, by God, that is on purpose. However, they are possible.

At the end of the day, when it's all said and done, to me, do the benefits of a National Popular Vote Compact outweigh the potential unintended consequences? Do we really believe more candidates will come to Maine or just go to that neighborhood in a major city that has as many citizens as we do? Do we play by the rules outlined in the Constitution or do we set precedence on how to destroy the Constitution? At the end of the day I have to believe that the founding fathers devised the best system, not a perfect system. I pledged to support the Constitution and will do so today with a no vote. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative **TUTTLE**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I would ask that you would review the letter distributed by the good Representative from Eagle Lake, Representative Martin, from former presidential candidate Michael Dukakis. I won't read it to you, but I'll paraphrase that he said it is the right thing to do for the country and it will put voters and spectator states, like yours and mine, on a level playing field with the voters in the swing states where we belong.

Madam Speaker, Men and Women of the House, I used to think the way the Electoral College worked was odd and maybe a little unfair, but if anything I used to think Maine benefited because we were a small state. I like that we divide our votes by congressional district. At times that has worked to our benefit, as you've heard from the comments of Representative Valentino from Saco and Representative Fitts from Pittsfield and Representative Wager of Waterboro and others in opposition. But overall, after listening to the facts presented to the Legal and Veterans Affairs Committee and having been former chair for about a decade, I think that the folks who advocate for a popular vote have a lot of good points.

You know, I'm not a pragmatist; I'm not a constitutional scholar. In 2008 two-thirds of the money of the campaign spent just went to six states. That's only six states. I mean what's so special about Florida or Ohio or Pennsylvania, Indiana or Virginia? Ninety-eight percent of the money that's spent went to just 15 states, which makes me wonder what's not so special about Maine. What's not so special about Massachusetts, Connecticut, North Dakota, Wyoming, California, Texas, Vermont, New York, Alabama, Kansas, and on and on and on. I mean why do we get the short end of the stick. I mean they all aren't little states, so it's not just about population.

I heard people say that we won't get any attention in Maine if we shift to popular vote, but what about the way it works now? In the last month of the 2004 election more money was spent advertising in the state of Florida than 46 other states combined. People who worry that Maine will get left out under a popular vote seem to ignore that we're already left out in the present picture. If every vote is equal then suddenly every vote is in play. Why do

we think that Coca-Cola bothers to advertise in Bangor or Portland? They advertise because there are consumers up there, just like there are voters, and it's widely understood that buying TV ads is cheaper per viewer in Bangor and Portland than it is in Boston. Under the popular vote, Maine isn't going to be the center of attention but we won't be excluded the way we are today. We will get polled, we will pay the same amount as anyone else for a lawn sign, and we will have an active campaign. People won't have to get in their car and drive to New Hampshire to volunteer. They can talk to the neighbors in their own neighborhoods, no more phone banks to call voters in Ohio. When every vote is equal then Maine will get attention because we are consistently high in voter turnout, and we also have a lot of unenrolled voters. It will become a system of margins everywhere and getting a few thousand more votes in Maine will help offset the margin in Idaho or somewhere else. Plus New England will become an important region, whereas today it's only New Hampshire that counts for power in New England.

Madam Speaker, Men and Women of the House, nobody has convinced me that there is anything wrong with treating every vote equally. Nobody has convinced me the candidate with the most votes shouldn't win the election. This is a simple question and I side with my constituents and hope you will join me in supporting this bill. Also, Madam Speaker, I would suggest that we stop whining and vote on this bill.

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

Representative **HINCK**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. This is one of those rare times in this chamber we discuss the shape of our government nationally and our Constitution, and it's one of those rare moments when I greatly appreciate the thoughts of my colleagues here and do not mind when the speeches go on for awhile. I am going to indulge in a story about myself. I try not to do that but one of the reasons why is I grew up in New Jersey, and many of us who have the honor of serving here in the State of Maine sometimes wish that if we weren't born here that we had been, and that maybe generations of our families had come from Maine. So I don't wear the flag of New Jersey every day to the Maine Legislature that I come here.

The first time I came to this state was 1965 with my family, and we came to visit an aunt in Sullivan. It was one of the great summers for me as a kid. I was 11 years old, a serious student, an athlete, a Boy Scout, and something about Maine really resonated with me. I probably wouldn't be here today if it hadn't been for that summer. But the reason why I tell this story is driving through Augusta, I did something that I can't recall that I'd ever done at any other time. I bought a postcard of the capitol of Maine, the dome, and I wrote that postcard and addressed it to myself. I took that postcard of this dome and mailed it back to my home in New Jersey saying something like we went to Maine and here's the capitol, Dear Jon, and I didn't remember it for years until that thing showed up in a box somewhere. It was the very same year that we studied government in sixth grade and I learned for the first time about the Electoral College, and I'm fairly certain this isn't unique to me. The teacher, who taught us about the Electoral College first taught us about the mechanics, presented it in the sober way that I recall all the discussion about our government, and then he ridiculed it. How many of us remember how ridiculous we thought the Electoral College was when we first heard about it? We were right, it is wrong. It is an outlier in our system of government in America.

We've already heard about people in Madagascar who can point to the U.S. Government and identify that mistake that we have at the core of this country, and I actually think it hurts our

country all the time. Every time we have something that doesn't work, doesn't represent us and we ignore it and allow it to go on, we're making a mistake. I think one of the things that, the challenges, that face us as elected officials in state government and even more in national government is cynicism of the public, the belief that you can't fight city hall. Whoever coined that? Every single one who serves in this House knows that you can fight city hall. More important, we can work with city hall and we can work here in this government to change things. But for some reason, we tend to believe there are things that we can never change. The Electoral College is one of them. If you polled people, they hate it. If you ask people on an individual level what they think of it, they dislike it. It's antidemocratic and yet we let it go on. This national popular vote concept is a device. It is not amending the Constitution, as has been pointed out here today. But I would say it is a very elegant device. It is legal, it is constitutional.

We've discussed the Constitution here today. I have my copy and maybe I can read it without my glasses but probably not so, this is what the Constitution says on this subject. Maybe I'll have to do it at another time. No, no, I'm determined. This is what the Constitution says on this subject. *Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors.* That is it. The Electoral College is not in the U.S. Constitution. We are not going around the Constitution if we do something that could change the system with the Electoral College. We are deciding here today if we vote for this, how the Legislature in Maine would choose to send electors nationally. The elegant thing about it if we have 270 electoral votes and they are pledged to go to the winner of the National Popular Vote, then what we've agreed to is to make sure that the winner of the National Popular Vote wins the presidency. Now it is true that there may be times, if we had that circumstance, when the State of Maine's vote would be different than the National Popular Vote. I do not actually think the citizens of Maine would hang on that formalism. We would be proud that we helped to create a system where the National Popular Vote prevailed in this country. We would know if we voted for the other man or woman who was running. That tally would be available, but we would have helped enable a victory on the National Popular Vote.

It has been mentioned that this would be contrary to the Twelfth Amendment. I'm glad I had my Constitution. The Twelfth Amendment, this was passed, by the way, in 1947 and ratified in 1951. *No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.* In other words, this was the amendment that was passed after FDR had three terms and the U.S. Congress and majority of states felt that the term should be limited to two. Nothing we do here today changes that. Do I have my roman numerals wrong? Okay, we go back to the Twelfth Amendment. This one is 1803, closer to the founders. The Electors shall meet in their respective states and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and verify. It is the procedures of taking your votes as an elector. Once again, if we set up a system where we agree to vote for the winner of the National Popular Vote, nothing is contrary to following those procedures. It has been worked out that way.

There have been a few scare tactics. Some of them relate to the idea of a compact. As has been mentioned, it is a contract and that's what the U.S. Supreme Court has consistently said. One prior speaker pointed out that there is an issue whether or not Congress would have to approve this. I found that peculiar. If Congress has to approve it, then the argument would be we shouldn't pass this because it might not succeed. It would seem to me if you were an opponent you'd be happy to have that check. I think the better weight of the legal reasoning on Congress' power is that this would not be the kind of compact that Congress would have to act on. Today it is well established that only those compacts that affect a power delegated to the Federal Government or all to the political balance within the federal system require the consent of Congress. That's from the Council of State Governments. This is discussing and addressing a power that is reserved to the states and specially identified in the Constitution. We don't have to fear compacts. What we are looking for is a democratic result. We are looking for an opportunity, once and for all, for Americans to find a way that we can have a system where, when people vote for president, their vote is counted.

I would just add, finally, that although the basis of my vote is that I think the National Popular Vote is the correct way to go, it would ultimately end up making Maine a more significant player. Any candidate looking for votes is going to spend a lot of time on the east coast. They are going to spend time in Boston. They are going to spend time in media markets that don't cost very much. We're not very far from there. And when they get to Maine, they get to a state with one of the highest turnouts of voters anywhere in the country. Suddenly our 1.3 million people are magnified compared to states the same size who have low voter turnout. This is actually a vote that helps Maine disproportionately, but again, that isn't the reason I would support it. I think it does the right thing nationally, and I thank you.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Giles.

Representative GILES: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to speak against this motion and there's been a lot of points raised so I'll try to focus in on two because I don't think they've been stated.

The first is I think back to the founding of this country, the founding fathers, and one very strong debate was the debate of a very strong federal government versus states' rights, and the individuality and the importance of those states to govern as much as they could under a more unified country. As part of the underpinning of that, as you may recall, was the formation of the Electoral College system as we know it, because it did give the ability for a smaller state with less population to, through the counting of the votes, be, I wouldn't say they're giving them more votes but be given a fairer voice within that system, and they recognize very much a very large, rural country, in some spots, that would benefit from that type of structure. Two folks that come to mind, Adams and Jefferson were their last names, who fought bitterly over the whole sense of a strong federal government versus the states' rights over time, and as we know from history, they died within hours of each other on July 4th, both very, very great statesmen and lovers of this country. So that's my historical perspective.

The second one is more recent because as the good Representative Harvell from Farmington mentioned, there has only been five times when the Electoral College came to play where the winner was actually one based on the Electoral College and did not carry the popular vote. So we've only seen one of these in our lifetime. Again, just a little history but the

loser in that election, I just find it interesting, had that individual carried his home state of Tennessee, where he lost by about 19,000 votes, he would have received 11 more Electoral College votes, he would have been our president, and it makes me wonder if we would be having this debate today. Thank you.

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

Representative **HARLOW**: Thank you, Madam Speaker. This has been a great discussion today, but I'm going to give you my Mark Twain saying. Giving a speech is like drilling for oil. You go more than five minutes, you're boring.

The most obvious problem with the Electoral College happened in 1876. There was a tie in the Electoral College and Tilden had won the popular vote and the election was fixed. They put together an electoral commission and in those days the House Representatives used to appoint the Senators, so they appointed an Independent from Ohio to be a Senator and he voted in the electoral commission. The vote was like 15 to 14 or something like that, and that's how Hayes won. Tilden won the popular vote, and Hayes and Tilden were tied in the Electoral College.

The founding fathers. The reason they had the Electoral College was because we didn't have telephones and we didn't have computers. They had to send somebody up there to Washington, you used to have to go to Washington in the Electoral. If I had my choice, I'd vote to get rid of the Electoral College all together.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Nutting.

Representative **NUTTING**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise at the risk of being accused of being either boring or whining, but nevertheless. Briefly I'd like to point out a couple of points that haven't been stressed, I don't think, and to direct your attention to a yellow handout that I wrote that's somewhat dated because I did that as an Op/Ed piece in the *KJ* back in February of '02 and a couple of things have changed, most notably, one of the paragraphs that says that only four states have voted for the National Popular Vote system. As we've heard now, regrettably, that's five. But as we've also heard, there is a popular movement in at least two of those states to repeal what they've done.

Just to read the first couple of paragraphs of my handout, it says each day's session in the Maine Legislature begins with these words, as we did just a couple of hours ago. I pledge allegiance to the Flag of the United States of America, and to the Republic—to the Republic—for which it stands. As the Pledge notes, the United States is not a democracy where the majority rules. That's one of the reasons why we've been in existence for about 240 years, where democracies have come and gone. If you don't care for the Electoral College process, you probably don't care for the way the United States Senators are seated either, because that's done as a compromise to benefit both the large and the small population states. If you treated the United States Senate the same way we're about to treat, by this majority motion, the Electoral College, Maine has about 1.3 million people. There are 308 million people in the United States. We would get a third of a Senator. I'm not sure how you do that, so you could increase, I suppose, the United States Senate to, let's say, 300. When we did that, then Maine would be fortunate enough to have one. But I'm less interested in past history or what people thought in Philadelphia or didn't think. I wasn't there, I'm not sure. I've read some of the papers, *The Federalist Papers*, but I'm not sure that that's pertinent to what we're doing.

I have two fears. The first fear is that what we will do here will, as we've heard previously, result in recounts from time to

time. Our elections are really close quite often, and if we can't confine the recounts to a certain cell or segment of this country and to a certain state or two, then the whole country opens up for a recount. If we do that, you can imagine what the mess, what it will look like. It will be truly a mess because we have different laws, different rules, different registration procedures. It's not going to be pretty. And the Federal Government will likely suggest that the only way to do it correctly is to let them take over. After 240 years of the states controlling their own destiny, to let the Federal Government take over is, I suggest, not a good idea.

The second danger that I see is that because there is no majority required, only a plurality, you may very well get someone who in a certain segment of the country gets 20 percent of the vote, and that is enough to get more votes than anyone else in the race and they become president. Some states are going to be disenfranchised. It may not be us; it may not be New England. It may be Arizona or California or Alaska. Somebody is going to get disenfranchised in that piece. Eighty percent of the population is going to have a president that they can't support. I think what we're doing today is we're picking away. If we go forward and vote for this bill, we're picking away at the glue that holds our country together, that literally holds our country together.

Finally, I'll just say that when my kids were smaller, we took a road trip to Florida one year. At times it was like National Lampoon's vacation movie, but other times it was very interesting. The most meaningful point for me and my family was when we stood in Gettysburg and we stood on top of a mountain, or a hill really, called Little Round Top, and you couldn't help but swell up with pride at the fact that it was Maine men, boys really, under Joshua Chamberlain, who arguably saved our country from being split apart. What we do today here, I think, is not as dangerous, it certainly doesn't rise to the level of commitment of those young men, but it is, in a way, picking away at the mortar and the bricks that builds this country. And when you vote today, I hope you remember that. Thank you.

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

Representative **BECK**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise in strong support of the pending motion and also to briefly address the issue of recounts. First of all, I suppose you could say the danger of recounts does not hinder us from electing governors and senators and everyone else by popular vote, and if one examines every statewide election since 1980, there is a recount between one out of every 332 statewide elections. Currently when we vote for president in 2008 or 2012, there are 51 individual statewide elections, and so I believe the risk for recounts is actually higher under our current system. But at the end of the day, I don't believe this false danger of recounts is any reason to, does not outweigh the value of having every vote equal, every vote matter, and guaranteeing that the person who receives the most votes is in the White House. It's not a new idea but it's an idea whose time has come. Thank you.

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

Representative **FLAHERTY**: Thank you, Madam Speaker. In the year 2000, everyone remembers Florida, and it was a mess. It wasn't, however, simply because of the Electoral College alone. There were hanging chads, voter suppression, lawsuits and a hot holy mess in that state. But what people often forget is that then-Vice President Al Gore, if he had simply won his home state of Tennessee, he'd have been president. And, more importantly, had our neighbors in New Hampshire voted for

Al Gore, he, likewise, would have been the one sitting in the Oval Office in January of 2001. If New Hampshire had been that state, couldn't Maine potentially wield similar significance in future elections?

Look even more recently, the election of 2008. The John McCain campaign made a public decision to reallocate valuable campaign resources from the very large state of Michigan and their more than 20 Electoral College votes to Maine's Second Congressional District and their single Electoral College vote. Bangor was then visited by not one but two Palins and, more importantly, as the Representative from Newport, Representative Tardy, told me, Todd Palin actually toured snowmobile stores with him around the state. If there wasn't an Electoral College in place, do you think any candidate would ever spend time in the State of Maine touring snowmobile factories and snowmobile stores? I certainly don't think so. There wouldn't be enough votes here. There wouldn't be enough votes in one location to make any impact on a national election in any corner of this state. We would be, as Representatives of the voters of Maine, removing our influence as a small state capable, just as capable as New Hampshire may have been, in playing a major role in the national election.

I believe that this measure is simply reactionary and, more importantly, is misguided. I strongly urge you to not get caught up in the 2000 election hysteria and instead do what is best for the people of Maine. Keep our relevance. Keep our influence, and continue to live up to our motto, *Dirigo*, and lead the nation against reactionary proposals such as this and certainly considering that this is quickly losing steam even in the states that have already passed it.

We've heard much about the Constitution during the course of this debate. The Constitution is a document that I love and I will not use it to subject my side of this issue because I believe this issue for us, on this day in this time, is a question of what is best for the people of Maine because that is what I was sent here to do. Thank you, Madam Speaker.

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

Representative **CAIN**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. A lot has been made about whether or not passing this bill is the right way to make a change in how we elect the President of the United States, and I will admit that this debate has happened before in this chamber and I have, over time, learned more and more about this proposal as it's gone along.

As we've heard today, history is rich with lessons for all of us related to this matter, and, as we've heard today, they can be used on both sides of the argument. But there are some specific lessons for me in history that lead me to support LD 56 and the motion before us.

Every single improvement to our election systems has come through state action. In the very first presidential election, I think it was mentioned earlier, only five states actually let people vote for the president, and by 1824, three-quarters of the states had used the power granted to them by the Constitution to allow the people to vote for president. This was a significant change that was brought about by the states. At first, most states let white men who owned significant property vote, that was it. Years later states decided there shouldn't be a poll tax or a property requirement to vote. And so it went gradually, step by step, states making changes to make our elections more fair and to bring them more under the principle of one person one vote.

For me, and I think personally for me, the best and most illustrated example is that of women's suffrage. For decades women pushed on Congress to amend our Constitution to grant

women the right to vote. Their efforts went nowhere. And so, in 1869, some left the movement in Washington and turned their attention to states, asking state legislatures, like us, for the power to let women vote. Later that same year, Wyoming was the very first state to allow women to vote, and 50 years later, by the time the Nineteenth Amendment to our Constitution was ratified, 30 states had granted women the right to vote. Maine did so just one year ahead of that amendment to our Constitution.

This surge from the states was the only way that this vital change to our nation's democracy came about. Most in Congress were elected by women who showed up to vote and the remaining members could see the momentum coming to their states as well, so the Nineteenth Amendment was passed and it simply extended suffrage to women in the remaining 18 states. Surely no one in this body thinks our predecessors made a mistake when they allowed women to vote before the Constitution forced us to do so. Surely no one here doubts that doubling the electorate to include women was an appropriate decision for states to make, or that this was somehow an end run around our Constitution.

The founders trusted the states with these decisions, it was quite intentional. And now somebody has figured out this plan where we can stand up and say that every vote for president should be counted equally, and every vote should be important and the candidate with the most votes should win the election. I think this is a significant piece of reform and I am thrilled with the level of debate today. I think it's classy, I think it's informative and I think it's principled. I am learning a lot during this debate, but I think the part that resonates with me most is that if you don't take action like this, if you don't push, then things don't happen and change doesn't happen, and I say the changes in this nation, particularly in relation to voting, who votes and how it's determined that they should be eligible to vote, have all been positive. Thank you, Madam Speaker. I am proud to cast my vote in favor of this motion today.

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

Representative **ADAMS**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. LD 56 will make more lawyers happy than Madonna's divorce decree. As much as I like hearing about Madagascar, I'd like to worry more about Meddybemps and about Munjoy Hill and about Maine because, in order to bring to any of those places the good things that the bill alleges that it would, I think it's important that we take a quick walk through the document itself. I'm sure you took it home last night and had it under your pillows all evening, but for those of you who didn't this is it.

The bill before us today, whatever the goal, does not abolish the Electoral College. It leaves it in place. Every state will still have electoral votes and will cast them. The bill before us today does not reform the Electoral College. Every state has as many votes and will still cast them. The bill before us does not substitute for the Electoral College direct popular election of the President of the United States. It does none of those things because you'd have to amend the Constitution of the United States in order to do those things, and the bill does not. What the bill would do is this. If passed by a sufficient number of states, it would set up a rival operation, within the context of the United States, to deal with casting of electoral votes, with all of the strictures of the Constitution, all of the deadlines of the Constitution, and all of the requirements of the Constitution still in place because you didn't change the Constitution. That rival operation would be simultaneously existing with the Constitution. There would be two rival ways of selecting the President of the United States in operation simultaneously at one time.

For many reasons, of the 50 states, as of this year, 50 states where this bill has been introduced, it has passed in five. Of those five, as of last week, three are now making efforts to repeal their endorsement of this bill before us today. Those states are New Jersey, Maryland, and Washington State, which joined the list just last week. In fact, it wishes to move to the system of casting electoral votes that Maine now has, moving to the congressional system, because they think we have a good thing going and they'd like in on it.

What is proposed by LD 56? Number one; here is how the rival outfit would have to work, case and exact point. In the year 2004, Mainers voted overwhelmingly indecisively for John Kerry. Had the bill been in effect and the National Popular Vote compact in effect, the day Mainers voted decisively for John Kerry, it would have meant the Republican electoral voters for the State of Maine would have trooped triumphantly to Augusta and cast Maine's four electoral votes for the opposition candidate, George Bush, the man Mainers did not vote for. And you, meeting your friends in front of the fire station that night would say, yes, I voted for that, I think it's a good idea. The only way to make the rival system work is to bind states this way. We're going to see it in the next couple of points.

Point two; the bill acts as if there is no court system within the United States. No system of federal courts that protect people's rights, no series of state courts to which complaints can go, and it pretends that the people of Maine and America just don't love to use that court system because it enforces us to follow a very strict series of timelines, and it does that because you didn't amend the Constitution of the United States. The first deadline is November, roughly November 6th, the second deadline is December 6th when the State of Maine casts its electoral votes, and the third deadline would be roughly January 6th when the electoral votes of the nation are counted by the President of the U.S. Senate in front of the U.S. Senate. All those dates stay in place. All the lawsuits must be decided within that timeframe because the Constitution's not been changed and the votes will be counted.

Thirdly, we're not being asked to pass a law. If you look at the document you will see its title is an Interstate Compact on the National Popular Vote. Supporters of the bill before us underline that fact. It is an agreement among the states to do a certain thing. I agree with them. It surely is, this is a contract, and we are being asked to bind Maine by our vote to a contract, a binding contract that has not gone through the Administrative Procedures Act, has not gone out for a memorandum of understanding, has gone through none of the normal processes that a contract that the State of Maine enters into has to under normal circumstances. You are being asked to absolutely sign the State of Maine into this, under very restrictive circumstances that allow us ever to get out of it. We'll talk about those in a moment. But it is a contract and the authors of this bill and the authors of the attending 750 page book that we each got about it, in which I hope each of you read, point out that this is a binding contract, and if you try to get out of a contract without permission, under the circumstances you joined, then what's your result? You get sued, and they make it their point to bring that up, with approval, on pages 346 to 350, pages 352 to 356, and pages 231 to 232, which note with great approval that when Nebraska tried to remove itself from a waste contract and the other states objected, Nebraska got hit with a \$141 million fine.

Before we sign this compact by passing this bill, you should remember this is the dear old briar patch. It looks easy to get in but you're going to get roughed up getting out unless you know the details. Here are the details. If you open the bill to page 2, you must understand that as few as 11 states in the United

States can bring this thing into being, even if we don't want part of it, if you chose the right 11. Most likely it will be about 16, roughly, large and small. If this becomes law that means 34 states and the District of Columbia and Guam are pushed to the sidelines, but must obey the terms of the agreement of the club. The club proposes two counts after Election Day. We are part of neither. We run neither. If you will look on line 16, every chief election official of each member state, those within the club, shall determine the number of votes for each presidential slate in every state, each state of the United States and the District of Columbia. Wait a moment. Those guys are counting our votes. What if there's a lawsuit in our state? What if there's a recount in our own state? Who has the say about the final total of number of votes in our state? Nevertheless, they proceed and, under line 25, at least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state, those within the club, shall make a final determination of the number of popular votes cast in that state and add them all together. What if there's a lawsuit? What if there's a recount? What if it is not done by December 1st, in this case? There is no fallback. In the following paragraph, an official statement containing the numbers of popular votes in a state for each presidential slate made by the day established for federal law, for a state making its final determination, conclusive as to the counting of electoral votes by Congress, shall be gathered by the chief election official of every state and treated "as conclusive." What state official? A state court, a federal court? What about the lawsuits in progress? What about the recounts in progress? Remember there were three sets of official returns from certain parts of Florida in the year 2000, each claiming to be the right one.

Can members in the club sue each other to force recounts that they may disagree with? Can members of the club sue states that aren't in the club to force them to do recounts until the club is satisfied? We don't know, except that 34 states and the District of Columbia and Guam may be pushed to the sidelines and useful to the club only as vote pumps. If you turn to the top of page 2, you will see the authors of this bill are concerned about a tie in the national presidential vote. It begins on line 3 and continues. If there is a tie in the National Popular Vote, what happens? They are actually saying, what if the vote comes out 50,200,001 versus 50,200,001? Well, then it will become essential to make one of those guys 50,200,002, and this is not beyond the realm of possibility. If you remember that in the year 2000 Al Gore got about 540,000 more votes than his opponent George Bush. That is about 3 votes for every electoral precinct in the United States. You don't think the Philadelphia lawyers are going to show up waiving warrants in Waterville, marching into Meddybemps, going to South Paris looking for three votes, wherever they might find it? If I don't find three in my district, I'll take six out of yours or, better yet, nine from yours, none of which we have a precedent to deal with, except Florida, if that's your standard of procedure. What if the presidential candidate who emerges from the winner in all of this faces electoral voters and states like Maine who say, you know, I don't care what the law is, I'm not going to participate in this, the law we are being asked to vote on today would allow the presidential elector to be named by the winning presidential candidate. Top of page 2, line 3 through 8, the winning presidential candidate could name Maine's presidential electors, who would then vote for him. The law does not require that they be Mainers. The law does not require that they ever voted here. The law does not require that they be voters at all.

Now suppose you've stumbled along thus far and survived this system, you should also be aware that on page 2, lines 18 through 24, you are voting to forbid changes to this law being

made by future legislatures. There is a period in which this law proposes that future legislators can never change it because, clearly the authors of the law realized that when people catch on there may be some difficulty here, and so they make it impossible to get out of the briar patch, except during certain periods of time. I will not explain their argument for them. I will leave them to do that. But it you weren't aware of it, you might have wanted to read the bill all the way through. Page 3, lines 6 through 10, allows a person to run for president in the State of Maine with more than one vice presidential candidate. It is in print there. They define the presidential slate as one person who has been nominated for president and one who has been nominated for vice president or any legal successor "regardless of whether both names appear on the ballot presented to the voter in a particular state." Ralph Nader ran for President of the United States earlier with different vice presidential candidates everywhere. Eugene McCarthy ran in the 1980s with a different vice presidential candidate in every state because he thought it was classy to do.

What if some of this gets assailed in court or what if we were to repeal it? You, by voting for the bill, are telling future courts and future legislatures exactly how they shall interpret all challenges to the law. It appears on page 17 through 19, on page 3, the changes to this bill are technical in nature and it is the intent of the legislature that this act be interpreted as substantially the same as the original state compact period. You define the limits of the briar patch, you make sure people can get into it, find it hard to get out, and while they are trying you tell the courts and future legislatures exactly what you want them to do to make it difficult.

Now the biggest problem does have to remain for the end and that is true challenges to the Voting Rights Act of 1965 and all successor acts to it, as recently as 2006, in its reprinting and re-endorsement, and the Equal Protection Clause of the United States Constitution which guarantees equal protection of the laws to all. When you have one rival system of counting votes versus the one established in law and the Constitution, there may indeed be a case for a lack of equal protection of the laws, because the ultimate meaning of what we are being asked to pass is that Maine's one vote in the presidency that counts will be determined not by Mainers but by outsiders who have joined this club. The ultimate decision about how Mainers' electoral votes will be cast will be made by people who are not Mainers, do not live here and did not vote here, in the matter of electing a President of the United States. This will be the least of the lawsuits that Maine will have to pay to defend in courts, all during the period from November 6th to January 6th, because we have not amended the Constitution of the United States and that is the date set by the Constitution for the counting of the electoral vote.

I know it's tempting to re-fight the year 2000 presidential election. You know in nirvana somewhere tonight, President Tilden, President Dewey and President Gore gather to sip bitter wine, play "Hail to the Chief" on a lonely kazoo, but we can't change the past, and changing the electoral system of the United States in a way that maybe looks neat on paper but runs afoul of 200 years of jurisprudence, voting rights acts and constitutional deeds, I think, puts us in a slippery place. This bill does not reform the Electoral College, does not abolish the Electoral College, will not bring about direct election of the people by the people of the United States or the President of the United States. There are ways to do that. The founders told us exactly how to accomplish it, and I wish the bill did any one of them but it does none of the three. We know how it can be done. We amended the United States Constitution twelve times in the Twentieth Century, about once every nine years, as recently as the 1990s. It can be done if you do it right. This is not just any old law. This

is not just any old contract. This is not the equivalent of a state agreement to build a bridge or to make a river basin or to institute mosquito control. This is the election of the leader of the free world and the Commander and Chief of the mightiest arsenal in the history of the earth, and the United States should not be inclined to treat it as child's play with a side agreement to determine how the President of the United States shall be elected. You and I know this will be so rife with lawsuits from every side that it will make the election of 2000 in Florida look like the Meddybemps County Fair, all fought out between November 6th and January 6th, of in a year, in which it goes into effect.

Colleagues, as much as I might like to see some of those other reforms instituted, the bill before you does none of them, brings up a whole host of new problems, is a purported cure as bad as the demonstrated disease, and I think very strongly that the best thing for us to do now is to watch what 50 other states might decide to do, given the fact that the five who already agreed to be in the contract, at least three of them want out now. I say watch and wait, plenty of years before 2012, plenty of times to think. This is the third time this has been brought up in the State of Maine. I say give it a nice sleep like we did the other two times and wait to see what the other states may do. Thank you, Men and Women of the House.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Legg.

Representative **LEGG**: Thank you, Madam Speaker. Men and Women of the House. Madam Speaker, I will be far briefer than the good Representative from Portland, but by golly I'm glad he got his voice back. I, too, am very impressed by the bipartisan across-the-aisle debate at a very high level. I wish we had more of them. I am looking forward to this vote because I'm very interested in how I am going to vote on this. On the one hand, the Electoral College is an absolute affront, as it currently exists, to the concept of one person one vote. It's an absolute affront. It's an embarrassment for this country to say it's a leader of democracy and have something like this. On the other hand, in my opinion, Maine has the best system that exists, and I applaud Representative Martin from Eagle Lake for bringing about that reform, which should have spread all across the country. It hasn't, but I believe it's the best system. So if I do vote yes, I am in no way repudiating that system because I think it's the best there is.

It is very easy to talk about this in constitutional law terms. I'm not going to do that, even though I did get the highest grade in my class in law school in constitutional law. But this isn't a court of law, this is the political process and we, I think, are going to vote what we really think is best for the country. It's nice to be able to debate something like that, but it is not necessarily, in my view, a repudiation of what I think is the best system. Thank you.

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

Representative **STEVENS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. There have been some great strong arguments on both sides of this issue. We've heard about the big movement across the country in the legislative bodies concerning this concept. We understand that it will not go into effect until there are 270 committed electoral votes. Clearly, by the awesome debate in this chamber today, there are still many questions and concerns that many of us have. I would ask you to consider this. If there is any doubt in your mind about this and how it will affect Maine, I would encourage you to join me to vote against the Majority Report because we know it will be back. Having only four electoral

votes, there is no need for us to rush on this. Thanks for your consideration. Thanks, Madam Speaker.

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

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Usually these debates don't sway me one way or the other, but someone threw out a very tantalizing thing that pushed me, pushed me to the brink. It really did. The thought of having Todd Palin come to Bath, it takes my breath away.

When I read this book provided to all of us, as I read the bill very carefully, the thought that came to mind was my candidate lost the election of 2000. Let's get over it. Let's get over it. If the Electoral College is such a terrible system, then we amend the Constitution and do away with it. We cannot lead ourselves into this end run around the Constitution, we cannot do it, and we cannot do it for good practical purposes.

In the 2008 election, 744,000 people in Maine cast a ballot. Out of 1.3 million, total population, that's an extraordinary turnout. Seventy percent of eligible voters voted in that election. The irony is that of that 744,456 people, we are overshadowed by hundreds of congressional districts in other states. A single congressional district in California could turn out twice that number in a heartbeat, so we are asking the 744,000 people in Maine who cast a ballot that your ballot is only provisional. Because if you don't get the right guy, if you don't choose the guy that the 20th District in Ohio chose, then your four electoral votes are going to go the other way. We are disenfranchising as many people who show up to vote in the State of Maine for their candidate. Their votes do not count because we have signed, or we are contemplating signing a contract that would simply give them up to the others who comprised the total of 270 votes, those members of the compact. And you can believe me, when a potential candidate looks at that, they are not going to come to Maine because we have a high voter turnout or because 740,000 people voted in 2008. They are going to direct their very limited resources to the highest number of electoral votes of those states in the compact. They are still going after the most popular states, they are still looking for those swing districts, nothing has changed. Todd Palin or not, there is no attraction to come to Maine looking for four votes that have already been dedicated to someone else. It simply does not make sense. It's not good for the State of Maine.

The other comment that was made and stuck with me was going to the fire station the night after the election and said, yeah, well you threw away your vote, I voted for that and I thought it was a good idea at the time, maybe I'm wrong now. We can't go there. We don't need to go there. Our four electoral votes are important to us, valuable to us. If we join this compact, let's join it when there is 266 votes pending and they need ours. They don't need us now and we will drop to the bottom of the list no matter which way we go. We shouldn't enter into this kind of compact. We should not disenfranchise voters in elections for years to come. We will change our motto to Maine follows; Maine follows California, Maine follows New Jersey, Maine follows Florida. I'm sorry, I don't want to go there. Thank you very much, Madam Speaker.

Representative SMITH of Monmouth assumed the Chair.
The House was called to order by the Speaker Pro Tem.

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

Representative **RUSSELL**: Thank you, Madam Speaker. I would second, third, maybe fourth, I don't know where it is along the line of speaking today, but I would certainly commend the fantastic debate that's happened. So I support the National Popular Vote bill for a few reasons in addition to those mentioned and also just a couple just to reemphasize. But let me start by just saying that in 2008, when I went to vote, I could not have been more excited. I had not been that excited to do something since the night before I went to Disneyworld for the first time when I was 12, and when I was 19, I went down to work there so it says a lot about how excited I was. I could not wait for Election Day, but I was so excited I didn't even vote on Election Day. I walked all the way down to city hall and voted early. It was fantastic. It was the first time I was running for office. Hopefully folks in this chamber will remember how exciting that moment was when you voted. But the important part, for me, it was that my name was going to be on the very ballot of the very important person that I could not wait to vote for. My Maine elector, whew, so excited. I really wanted to vote for my Maine elector but their name wasn't on the ballot. It was very, very frustrating. There was this person named Barack Obama. I had to vote for him. That was a problem. I mean, I was all ready to vote for Jill Duson, who was our elector from Portland—very exciting, very exciting—but there was this gentleman on the ballot instead, Barack Obama. Well, Madam Speaker, if you believe that, I have some oceanfront property in Arizona I would just love to sell you. Indeed, I was excited, and indeed my name would be on the ballot of someone I respected deeply. But sadly, I was not there to vote for an elector. I was casting my vote for the President of the United States, not the person who would go carry my vote like a water boy down the street.

As I drove up to Augusta today, it struck me too that I was seeing bumper stickers left and right. Some were from McCain/Palin; others were for Obama/Biden. Not one bumper sticker did I see for our electors. Now I adore Jill Duson who, I said before, was one of our electors. She has been mayor of our great city for a few times and I just adore her, but I did not want to vote for her as president or as elector. I wanted to vote for my candidate. I believe, and maybe folks in this chamber would disagree, that when we go to the ballot, we psychologically cast our vote for a presidential candidate. It is time that we actually cast our ballot for our favorite presidential candidate.

Now, as many of you know, a little ad nauseum, I've spent considerable time and passion working on clean energy jobs, renewable energy and energy efficiency. Well that is not what we are here debating today. I believe that the method of electing the president directly relates to our energy issues. Candidates don't talk about renewable energy. Even Al Gore, whose deep concerns with these issues, whether you agree with his positions or not, he is deeply concerned about these issues. That baseline started in the 1980s and he never once brought up renewable energy as he campaigned in 2000. Instead we debate Cuban policy. Instead we have ethanol policy defying any logic, unless you're trying to win over the swing states of Iowa and Ohio. Well, very little of our country worries about Cuba. This is a hot topic in southern Florida. Renewable energy does not get the airtime it should because candidates are fixated on winning Ohio and Pennsylvania, states with a very powerful coal industry. Further, when most pundits talk about the cost of oil, they talk about the burden of putting gas in people's cars. Now that is also an issue here in Maine, but we are also still trying just to heat our homes. I believe this is why the Sierra Club, the Defenders of Wildlife, Public Citizen and U.S. PIRG have all endorsed the National Popular Vote proposal. They all recognize just how broken the current system is today and long to see a vigorous debate on the

issues of clean energy, energy efficiency and our quality of place. If we had a popular vote for president, then every vote would be equal and the candidate with the most votes would be guaranteed to win. At that point margins matter everywhere. Instead of us being taken for granted and folks only taking policy positions to appease the swing states, a candidate will consider other people's issues, everyone's issues. Margins will matter everywhere and policies that are priorities for every state will finally have a chance to be added to our national debate. When a vote count in Maine counts as much as a vote in Ohio, I hope we can get down to discussing the significant changes we need to see in our country.

I'd like to point out there has been a lot of conversation about the fact that we've been locked out of campaigns, you know, that the significant amount of money goes to six, thirteen, depending on where the votes are, those states. Those are the swing states. But I would argue that we're also being singled out and kept out of the governance of our country. Today the President of the United States is in New Hampshire. Well, I'm sorry, with due respect to the senators in New Hampshire, Maine has two of the most powerful senators in the country. Every public policy that this administration wants to defend in 2012 comes through this state and not once have we seen a presidential visit. Not once. If the president were truly committed to advancing his agenda, he would be right here in the state and instead, today, he's next door talking about business and economic development and banking. Well, that's great. We care about those issues too.

You know, I keep hearing, also, that this is going to end up in the courts. Well, I'm reminded of my undergraduate business law class. I had a great professor, he was fantastic and, as students, we would always ask "Professor, can you sue someone for this, can you sue someone for that?" He'd sit back in his chair and laugh, and he'd say "Well, you can sue anyone for anything. The important question is will you win." I believe that this compact is on solid ground. But again, I'm not a lawyer, so I would defer it to an organization that I truly respect and that is the American Civil Liberties Union. Whether you agree with their interpretation of the Constitution or not, I certainly do, they do defend the Constitution, and I can't tell you how many times they've come before our committee and said, you know, this violates the Constitution. They remind us constantly of our First Amendment rights that we're about to violate, and they remind us of our Fourteenth Amendment rights that we're about to violate, and they remind us gently that, you know, if you pass that law you're going to have some problems. I respect the Constitution so I take their word for it. When they say it's unconstitutional, I think twice. Well not only has the American Civil Liberties Union come out and suggested that this was constitutional and settled, they actually came out and said we support this proposal "by ensuring that each vote cast has an equal impact on the outcome of the presidential election, the National Popular Vote gives each citizen equal power in the election regardless of the state in which the voter lives. Instead of a few states deciding the outcome, candidates will need to speak to and listen to all citizens throughout the country equally." Now there was a reference that some of us do not support the citizen's initiative and therefore we would be in direct conflict with the idea of allowing the people to speak, and I would just like to remind folks that I actually do support the citizen's initiative and stood up in favor of it not that long ago.

The one last thing I would leave you with is that we do a lot of exporting of democracy. We hear in the national headlines all the time about how what country we're in and how we're trying to export democracy and how we're bringing freedom to other places. We do not export the Electoral College. We do not go

into other countries and tell them that the Electoral College would be a great way of managing your vote system. On the contrary, we help them set up the National Popular Vote. So if we are going overseas promoting democracy and promoting our version and our view of democracy, why are we not selling them something that we've already bought? Why are we telling other countries you probably don't want to do that? If it's not good enough for places in Iraq and it's not good enough for other places that we've gone into and decided to set up democracies, why is it good enough for the people of Maine? I believe that the people of Maine deserve better. I believe that with a new system, using the system that's being put before you, we will have an opportunity to not just participate in campaigns, not just be able to garner a little bit more advertising revenue, which is great for economy, I'm all for it, but maybe, just maybe people will respect the fact that we have good ideas, and that if they want to pass those ideas in Washington that they're going to come talk to the people of Maine when it matters most. And so I remind you that the President of the United States is in New Hampshire right now. Why is that? Because the people of New Hampshire vote first in the primaries. We need to make certain that Maine doesn't just have a strong voice at the ballot box, but that we have a strong voice at the governance box, that our people's voices are heard in the halls of Washington, and I believe that this is the way to do that and I ask you to support the current motion. Thank you, Madam Speaker.

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

Representative CAREY: Thank you, Madam Speaker Pro Tem. I rise again and I apologize if it's one person too long. I wanted to respond to a couple of the great arguments that have been raised or created in response to this. I'm going to warn you that I'm going to talk about the Election of 2000, not to try to sway some of my friends across the aisle that the wrong person won but because I think it's important to look at history rather than making up scenarios.

It's been suggested that this bill would create a rival bureaucracy, a rival system that would compete with the current system. I would remind you, as our colleague did, that this doesn't abolish the electoral system, it changes Maine's votes in a manner that the state legislature shall support how the electors are chosen.

Second, we've talked about recounts and the event of ties and so on and so forth, and here is where I'm going to talk about Florida. It's been suggested that we're all going to be like Florida and it's going to be awful. Florida happened because there is a margin of 435 votes. Millions were cast. Four hundred thirty-five votes, that's why there was a recount. The other number that was important that same day was 535,000. Recounts are much less likely, very much less likely under this bill than they are under the current system.

Finally, it's been suggested that this is a briar patch that Maine would not be able to get out of. Again, existing election laws stay in place as they should. Once an election has started you can't change the rules of the game. What the bill says is once that election has started, was specifically in the last six months of a president's term, so about in the month of August. So essentially by the time we have our conventions, you can't change the rules of the game. That makes sense. Both parties would be screaming in the State of Maine if we changed the rules of the game after August. This is not a briar patch but I think you'll find it entirely in keeping with existing state and federal law.

I will close, again, with the reason I am supporting this. The leader of the free world should be chosen by every member of the country that he or she governs for the issues that are

important to all of us. Rather than rising again, I'd like to ask a question through the Chair if I may.

The **SPEAKER PRO TEM**: The Representative may pose his question to anyone who cares to answer.

Representative **CAREY**: Thank you, Madam Speaker Pro Tem. One of our colleagues had asked the attorney general for a legal opinion on this bill and I am just interested to hear the response. Thank you.

The **SPEAKER PRO TEM**: The Representative from Lewiston, Representative Carey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Adams.

Representative **ADAMS**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. My colleague from Lewiston posed a question through the Chair. I have spoken to the Attorney General of the State of Maine who indicates that, because of the weight of the issues involved in this particular case and the weight and complexity of the matters that it places in question, it will not be possible by one o'clock this afternoon for the attorney general to have taken any action upon the request, because we are already clearly debating the bill. However, I do have guidance provided by past attorney generals of the State of Maine on this exact matter. The attempt to bind future legislatures and forbid them at any time from changing laws that they see fit whenever they are in session is not allowed by the Constitution of the State of Maine. We may not surrender legislative power without amending the Constitution. We may not bind future legislatures by any law that we may pass now attempting to forbid future legislatures from changing it. Those questions are addressed in numerous opinions of the Attorney General of the State of Maine, including that of January 15, 2007, opinion 07-1; May 20, 2003, of which is opinion 03-2; as well as the opinions of the justices of the Maine State Supreme Court, found at 673A 2nd 693,695 Maine 1996. Thank you, Madam Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Madam Speaker. I rise today, Madam Speaker and Men and Women of the House, in favor of the pending motion but with the utmost respect for all of those who have spoken on both sides of this issue today, which is, in a sense, both the least important and also the most important thing that we'll confront this session. The least important because it doesn't address our budget and the most because it does address how the leader of the free world is chosen. I have the utmost respect and admiration for all of those in this chamber because I believe that everyone brings to this issue the greatest of minds in our state, and also the purest of motives.

My light will be green today because I know that the Constitution does allow us, each state, to assign its electors. That power is explicit. Our attorney general has spoken and has said that this bill before us today is facially constitutional, and I would suggest, Madam Speaker, that we also remember that this body ultimately is not the arbiter of the United States Constitution. It is our duty to uphold and protect it, but the Supreme Court of the United States can decide this issue, and if there is a significant constitutional question that we're unaware of it, it can be decided there, just like the election of 2000 was. I hope that doesn't make you nervous. But fundamentally, this is not a partisan issue. And my light will also be green because I believe we are leaving behind a system in voting that way, that once protected slavery and was, in some measure, designed to do that, where the north has a growing population and the south was

very concerned that their slave economy would be threatened by a popular vote, and a system that now protects coal subsidies and corn subsidies. A system in which Maine's vote is no stronger than it would be if we were to leave that system behind, a system from which we could withdraw under the provisions of this measure, if we chose to do so. And a system from which no state that has passed it has chosen to withdraw, and I'm not aware of any bill before any of those states that would suggest even the proposal being taken seriously.

My light will be green because I too am concerned about the hanging chads of Florida and the difficult decisions that have happened in specific precincts in specific states. But mathematically, we know, any one who studied basic probability knows that with 50 times more people, the chances are 50 times greater that the election will be decisive without a recount. That's a fundamental mathematical principle. I'd like to move beyond those recounts. And I would submit to you, just to understand those basic mathematics, we should remind ourselves that recounts in gubernatorial elections in Maine are rare, our recounts in House races are common and we have seen recounts in the most recent election in House races coming down to one vote in some cases. But it isn't just 50 times greater. The probability, in fact, is 150 times greater, if we move beyond the current system, that we will have a decisive vote. And the reason for that is 15 states right now, not 50 but 15, decide the outcome of the election—150 times greater, at least, will be our chances of having a decisive election under a national popular vote system.

My light will be green because I have lived in New York City and with due deference to my good friend and colleague who served with me on Utilities, the Representative from Pittsfield, there are not 1 million voters on a New York City block. There are far fewer than a million but, at the end of the day, you know what? Their vote counts for about as little as ours does in Maine. They are largely ignored as are we.

My vote will be green because the states have always led the way. They have always led the way before constitutional amendments were passed. The states led the way in giving women the right to vote. The states led the way in giving those without property the right to vote. And the states led the way in giving blacks the right to vote. The constitutional amendments came later and Maine was one of those leaders. In a federalist system, it is the states that should be the crucible of democracy. That is how our system is designed.

Madam Speaker, all of those reasons are important to me, and I've listened to the arguments on both sides of this and I really do believe that all of us have made thoughtful choices about our votes or are still making them. But at the end of the day, there is one reason that rises above all the others which is that, today, I want to be able to go home and tell my two sons, who are six and eight years old, and whose mother is from another country, and whose father, like all of us here, is descended from immigrants, that every American, regardless of the color of their skin, regardless of their gender, regardless of whether they own property and regardless of their home state, is equal in the eyes of the Chief Executive who serves them and owns equal stock in the most important enterprise of our nation, choosing that Chief Executive.

In this room, I believe that we have the Muskies and Mitchells of tomorrow and also the Smiths and the Hamblins, and that makes me proud. We have people of vision who are not afraid to move ahead, and we have people of conviction, on both sides, who are not afraid to speak their minds and to represent the people at home, to represent their own opinion of what is best, and so, I hope, to represent the 77 percent of Mainers who believe that this is the way to go.

Regardless of what happens in the pending motion, I will be proud of this chamber and of every member assembled here. If it passes I will be proud and if it fails I will be equally proud, because I know that we will all, every one of us today, be respected as equals, equal minds and spirits and equal votes. That's all we ask with this legislation. And I do hope we will one day, today or later, do the same for the entire nation. Thank you, Madam Speaker.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 256

YEA - Beck, Berry, Blodgett, Bolduc, Briggs, Bryant, Butterfield, Cain, Campbell, Carey, Cohen, Crockett P, Dill, Dostie, Duchesne, Eberle, Goode, Harlow, Haskell, Hinck, Hogan, Innes Walsh, Kent, Legg, MacDonald, Magnan, Martin JL, Mazurek, McCabe, Miller, Percy, Perry, Peterson, Pieh, Piotti, Priest, Rotundo, Russell, Schatz, Sirois, Smith, Stuckey, Sutherland, Theriault, Trinward, Tuttle, Wagner R, Webster, Welsh, Madam Speaker.

NAY - Adams, Austin, Ayotte, Beaudette, Beaudoin, Beaulieu, Bickford, Blanchard, Boland, Browne W, Burns, Casavant, Cebra, Celli, Chase, Clark H, Clark T, Connor, Cotta, Crafts, Cray, Crockett J, Curtis, Davis, Driscoll, Eaton, Edgecomb, Eves, Finch, Fitts, Flaherty, Fletcher, Flood, Fossel, Gifford, Gilbert, Giles, Greeley, Hamper, Hanley, Harvell, Hayes, Hill, Hunt, Johnson, Jones, Joy, Kaenrath, Knapp, Knight, Kruger, Lajoie, Langley, Lewin, Lovejoy, Martin JR, McFadden, McKane, McLeod, Millett, Morrison, Nass, Nelson, Nutting, O'Brien, Pendleton, Peoples, Pilon, Pinkham, Plummer, Prescott, Rankin, Richardson D, Richardson W, Rosen, Sanborn, Sarty, Saviello, Shaw, Stevens, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tilton, Treat, Valentino, Van Wie, Wagner J, Watson, Weaver, Wheeler, Willette, Wright.

ABSENT - Cleary, Cornell du Houx, Cushing, Flemings, Pratt, Robinson.

Yes, 50; No, 95; Absent, 6; Excused, 0.

50 having voted in the affirmative and 95 voted in the negative, with 6 being absent, and accordingly the Majority **Ought to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative MARTIN of Eagle Lake, the Minority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Resolve, To Reclaim Past Unredeemed Beverage Container Deposits

(H.P. 479) (L.D. 696)

Signed:
Senators:
SCHNEIDER of Penobscot
RECTOR of Knox

Representatives:
SMITH of Monmouth
WRIGHT of Berwick

AUSTIN of Gray
MacDONALD of Boothbay
PRESCOTT of Topsham
HUNT of Buxton
CLEARY of Houlton
MARTIN of Orono
GILES of Belfast
COHEN of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-599)** on same Resolve.

Signed:
Senator:
SULLIVAN of York

READ.

On motion of Representative SMITH of Monmouth, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-601)** on Resolve, To Develop a Model Academic Year Calendar

(H.P. 1100) (L.D. 1563)

Signed:
Senators:
ALFOND of Cumberland
SCHNEIDER of Penobscot

Representatives:
SUTHERLAND of Chapman
FINCH of Fairfield
CASAVANT of Biddeford
WAGNER of Lewiston
LOVEJOY of Portland
NELSON of Falmouth
RANKIN of Hiram
RICHARDSON of Carmel
McFADDEN of Dennysville
JOHNSON of Greenville

Minority Report of the same Committee reporting **Ought Not to Pass** on same Resolve.

Signed:
Senator:
WESTON of Waldo

READ.

On motion of Representative SUTHERLAND of Chapman, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-601)** was **READ** by the Clerk and **ADOPTED**. The Resolve was assigned for **SECOND READING** Thursday, February 4, 2010.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 997) (L.D. 1421) Bill "An Act To Ensure the Perpetual Care of Maine Veterans' Cemeteries" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-602)**

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

SENATE PAPERS

Bill "An Act To Authorize a General Fund Bond Issue To Create a New Electronic Medical Records Infrastructure"

(S.P. 675) (L.D. 1761)

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and ordered printed.

Came from the Senate, **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed.

REFERRED to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

Resolve, Concerning the Proper Disposal of Motor Fuels Containing Ethanol

(S.P. 674) (L.D. 1760)

Came from the Senate, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

REFERRED to the Committee on **NATURAL RESOURCES** in concurrence.

Bill "An Act To Provide Incentives for Energy Conservation through Voltage Regulation"

(S.P. 676) (L.D. 1762)

Came from the Senate, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

On motion of Representative CLARK of Millinocket, the House adjourned at 1:38 p.m., until 10:00 a.m., Thursday, February 4, 2010 in honor and lasting tribute to Horace T. Gardner, Jr., of Millinocket.