

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-Third Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

June 6, 2007 – June 21, 2007

**Second Regular Session**

January 2, 2008 - March 31, 2008

Pages 682-1357

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE  
SECOND REGULAR SESSION  
21st Legislative Day  
Wednesday, March 5, 2008

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

Prayer by Reverend Wayne Farrington, Elder, Galilee Baptist Church, Gorham.

Pledge of Allegiance.

Doctor of the day, Jeffrey Bensen, M.D., Freeport.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**  
**Non-Concurrent Matter**

Joint Order to Recall L.D. 529 from the Legislative Files to the House  
(H.P. 1386)

**READ** and **PASSED** in the House on January 2, 2008.

Came from the Senate **FAILING** of **PASSAGE** in **NON-CONCURRENCE**.

Representative PIOTTI of Unity moved that the House **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**.

Pursuant to Joint Rule 404, the motion to **INSIST** to **PASSAGE** of the Joint Order required the affirmative vote of two-thirds of those present for **PASSAGE**. 93 voted in the affirmative and 6 in the negative, 93 being more than two-thirds of those present, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**.

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**Non-Concurrent Matter**

Bill "An Act To Provide Additional Funding for the Low-income Home Energy Assistance Program" (EMERGENCY)  
(H.P. 1575) (L.D. 2208)

**READ TWICE** under suspension of the rules without reference to a committee and **PASSED TO BE ENGROSSED** in the House on February 12, 2008.

Came from the Senate **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in **NON-CONCURRENCE**.

On motion of Representative PINGREE of North Haven, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

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**COMMUNICATIONS**

The Following Communication: (H.C. 464)

**STATE OF MAINE**  
**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**  
**COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**

March 3, 2008

Honorable Beth Edmonds, President of the Senate  
Honorable Glenn Cummings, Speaker of the House  
123rd Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:  
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business, Research and Economic Development has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2003 An Act To Create the Southern York County Regional Development Authority (EMERGENCY)

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,  
S/Sen. Lynn Bromley  
Senate Chair  
S/Rep. Nancy E. Smith  
House Chair

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: (H.C. 465)

**STATE OF MAINE**  
**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**  
**COMMITTEE ON HEALTH AND HUMAN SERVICES**

March 3, 2008

Honorable Beth Edmonds, President of the Senate  
Honorable Glenn Cummings, Speaker of the House  
123rd Maine Legislature  
State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2034 An Act To Prohibit the Sale of Energy Drinks to Minors

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,  
S/Sen. Joseph C. Brannigan  
Senate Chair  
S/Rep. Anne C. Perry  
House Chair

**READ** and **ORDERED PLACED ON FILE**.

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The Following Communication: (H.C. 466)

**STATE OF MAINE**  
**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**  
**COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

March 3, 2008

Honorable Beth Edmonds, President of the Senate  
Honorable Glenn Cummings, Speaker of the House  
123rd Maine Legislature  
State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1966 Resolve, To Allow John Jorgensen To Sue the State (EMERGENCY)

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,  
S/Sen. Lisa T. Marraché  
Senate Chair  
S/Rep. John L. Patrick  
House Chair

**READ** and **ORDERED PLACED ON FILE**.



The Following Communication: (S.P. 869)

**STATE OF MAINE  
123RD MAINE LEGISLATURE**

February 28, 2008  
Sen. John L. Martin  
Senate Chair, Joint Standing Committee on Natural Resources  
Rep. Theodore S. Koffman  
House Chair, Joint Standing Committee on Natural Resources  
123rd Legislature  
Augusta, ME 04333

Dear Senator Martin and Representative Koffman:  
Please be advised that Governor John E. Baldacci has nominated the following to the Board of Environmental Protection:

Donald Guimond of Fort Kent for reappointment  
P. Andrews Nixon of Brunswick for appointment  
Lissa Widoff of Freedom for appointment  
Pursuant to Title 38 M.R.S.A. Ch. 2 §341-C, these nominations will require review by the Joint Standing Committee on Natural Resources and confirmation by the Senate.

Sincerely,  
S/Beth Edmonds  
President of the Senate  
S/Glenn Cummings  
Speaker of the House

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

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

The Following Communication: (S.P. 870)

**STATE OF MAINE  
123RD MAINE LEGISLATURE**

February 28, 2008  
Sen. Dennis S. Damon  
Senate Chair, Joint Standing Committee on Transportation  
Rep. Boyd P. Marley  
House Chair, Joint Standing Committee on Transportation  
123rd Legislature  
Augusta, ME 04333

Dear Senator Damon and Representative Marley:  
Please be advised that Governor John E. Baldacci has nominated Dana Connors of Gray for reappointment to the Northern New England Passenger Rail Authority. Pursuant to Title 23 M.R.S.A. §8112 (1), this nomination will require review by the Joint Standing Committee on Transportation and confirmation by the Senate.

Sincerely,  
S/Beth Edmonds  
President of the Senate  
S/Glenn Cummings  
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **TRANSPORTATION**.

**READ** and **REFERRED** to the Committee on **TRANSPORTATION** in concurrence.

**PETITIONS, BILLS AND RESOLVES REQUIRING  
REFERENCE**

Bill "An Act To Continue Maine's Leadership in Covering the Uninsured"  
(H.P. 1608) (L.D. 2247)  
Sponsored by Representative PINGREE of North Haven.

Cosponsored by Senator SULLIVAN of York and Representatives: BRAUTIGAM of Falmouth, CANAVAN of Waterville, CROCKETT of Augusta, Speaker CUMMINGS of Portland, FAIRCLOTH of Bangor, PRIEST of Brunswick, Senators: BOWMAN of York, President EDMONDS of Cumberland, MARTIN of Aroostook, MITCHELL of Kennebec.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Committee on **INSURANCE AND FINANCIAL SERVICES** suggested and ordered printed.

**REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** and ordered printed.

Sent for concurrence.

**Pursuant to Statute  
Criminal Law Advisory Commission**

Representative SIMPSON for the **Criminal Law Advisory Commission** pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2 asks leave to report that the accompanying Bill "An Act To Delete Outdated References to Rule 42 of the Maine Rules of Criminal Procedure from the Maine Bail Code and the Provision Allowing for Appeals by Aggrieved Contemnors"

(H.P. 1609) (L.D. 2248)

Be **REFERRED** to the Committee on **JUDICIARY** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-433)** on Bill "An Act To Change the Statute of Limitations for Gross Sexual Assault by a Juvenile"

(S.P. 535) (L.D. 1512)

Signed:

Senators:

DIAMOND of Cumberland  
McCORMICK of Kennebec  
SHERMAN of Aroostook

Representatives:

GREELEY of Levant  
HILL of York  
PLUMMER of Windham  
TIBBETTS of Columbia  
KAENRATH of South Portland  
HASKELL of Portland  
SYKES of Harrison

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

Signed:

Representatives:

GERZOFKY of Brunswick

BLANCHETTE of Bangor

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-433)**.

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "B" (S-433)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 6, 2008.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass** on Bill "An Act To Improve the Compliance and Accountability of the Child Development Services System"

(S.P. 767) (L.D. 1973)

Signed:

Senators:

BOWMAN of York  
MITCHELL of Kennebec

Representatives:

MAKAS of Lewiston  
FARRINGTON of Gorham  
EDGECOMB of Caribou  
McFADDEN of Dennysville  
MUSE of Fryeburg  
STRANG BURGESS of Cumberland

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

Signed:

Senator:

MILLS of Somerset

Representatives:

NORTON of Bangor  
FINCH of Fairfield  
HARLOW of Portland  
SUTHERLAND of Chapman

Came from the Senate with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

**READ.**

Representative NORTON of Bangor moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Minority **Ought Not to Pass** Report and later today assigned.

#### CONSENT CALENDAR

##### First Day

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

(S.P. 660) (L.D. 1843) Bill "An Act To Improve the Quality of Health Care in Maine" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-435)**

(S.P. 800) (L.D. 2006) Bill "An Act To Give Municipalities Control of Mussels Located in Intertidal Zones" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-434)**

(H.P. 1450) (L.D. 2066) Bill "An Act To Clarify the Laws Governing the Extension of Health Care Coverage to Dependents" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-710)**

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. 1536) (L.D. 2162) Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation (EMERGENCY)

(H.P. 1564) (L.D. 2194) Resolve, Regarding Legislative Review of Portions of Chapter 26: Standards for Indoor Pesticide Applications and Notification for All Occupied Buildings Except K-12 Schools, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control (EMERGENCY)

(H.P. 1578) (L.D. 2211) Resolve, Regarding Legislative Review of Portions of Chapter 29: Standards for Water Quality Protection, Section 6, Buffer Requirement, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control. (EMERGENCY)

(H.P. 1410) (L.D. 2026) Resolve, To Reimburse School Administrative District No. 11 for the State Share of Retirement Contributions Paid in Error (EMERGENCY) (C. "A" H-702)

(H.P. 1467) (L.D. 2081) Bill "An Act To Prohibit the Retail Sale and Distribution of Novelty Lighters" (EMERGENCY) (C. "A" H-704)

(H.P. 1499) (L.D. 2113) Bill "An Act To Implement the Recommendations of the Committee To Study the Prison Industries Program" (EMERGENCY) (C. "A" H-705)

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

##### Senate

Bill "An Act To Minimize the Potential for Slope Failure in Gravel Pits"

(S.P. 859) (L.D. 2227)

##### House

Bill "An Act Regarding Tort Liability in the Provision of E-9-1-1 Access-only Service"

(H.P. 1599) (L.D. 2238)

Bill "An Act To Extend the ConnectME Authority"

(H.P. 1607) (L.D. 2246)

##### House as Amended

Bill "An Act To Provide a Rebate for Clean Energy Geothermal Heating Units"

(H.P. 1376) (L.D. 1942)

(C. "A" H-706)

Resolve, Regarding Special Education Evaluations

(H.P. 1387) (L.D. 1949)  
(C. "A" H-699)  
Bill "An Act To Designate Certain Rules of the Bureau of State Police as Major Substantive Rules"

(H.P. 1406) (L.D. 2022)  
(C. "A" H-701)  
Bill "An Act To Amend the Conflict of Interest Laws for Notaries Public"

(H.P. 1441) (L.D. 2057)  
(C. "A" H-707)  
Bill "An Act To Amend the Public Works Contractors' Surety Bond Law of 1971"

(H.P. 1478) (L.D. 2092)  
(C. "A" H-696)  
Bill "An Act Relating to Insurance Coverage for Colorectal Cancer Early Detection"

(H.P. 1495) (L.D. 2109)  
(C. "A" H-697)  
Resolve, Regarding Legislative Review of Portions of Chapter 3: Provision of Enhanced E-9-1-1 Access-only Service, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

(H.P. 1521) (L.D. 2141)  
(C. "A" H-693)

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

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On motion of Representative PINGREE of North Haven, the House **RECONSIDERED** its action whereby Resolve, Regarding Special Education Evaluations

(H.P. 1387) (L.D. 1949)  
(C. "A" H-699)  
Was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-699)**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "A" (H-699)** and later today assigned.

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, 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 (12) **Ought to Pass as Amended by Committee Amendment "B" (H-684)** - Minority (1) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Generate Savings by Changing Public Notice Requirements" (EMERGENCY)

(H.P. 1310) (L.D. 1878)  
TABLED - February 25, 2008 (Till Later Today) by Representative BARSTOW of Gorham.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the **Majority Ought to Pass as Amended** 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 Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to rise in opposition to this bill as presented. As many of you know, there was a lot of good work that went into the outcome. Certainly, the view that there might be savings up to maybe \$200,000 or \$300,000 was compelling. It was also presented to the bill that 80 percent of the state has access to internet, so that should be a compelling feature. And then it also indicated that the way public notices are packaged in place that they do not really encourage leadership, and so to change the mode in which we give out public information would be appropriate, and hence the vote that you see before you.

I, on the other hand, represent a district where access is not available, even though technically it is available; certainly there is no internet, fast service internet, unless you want to go the library, which libraries have diminishing hours because of budget cuts, or if you want to hang out in the library parking lot in Blue Hill, you can do that. But for the most part, the ability to access websites and interact in that fashion is, in fact, relatively rare, and you would have to do it at times of day that are not convenient to the working public.

Secondly, the nature, if people are directed to the maze of 800 numbers or emails, they are again discouraged to seek further information on pending rule changes, and I think that in essence their opportunity to gain public information, or information on what our government is doing, is diminished by this bill. This may be a bill of the future, but I really feel that it does not bode well in many of our communities, certainly in mine and, therefore, I cannot in good conscience support it.

Further, I would indicate that the packaging tends to be—because many people commented that people do not look at this stuff anyway, it is an obscure language, it is in tiny print and you never know where it is going to be—well, I do not think that is the fault of the readers. That, in a sense, is caused by how we present it, so we should be spending our time looking at the approach to presenting public information, not diminishing it by passing a bill such as this. I think we have not looked enough at: we know we have an aging population; we know that the style of getting information has not reached the point where we are all internet, not only accessible but literate; and to assume otherwise is the wrong place to go now. I would like to see this bill in the future after we have looked at the type of messages that are coming out from our agencies, and making sure that, as you will hear perhaps later, this bill does allow for a summary to be placed in newspapers, and indeed it is the agencies that create the summary, so condensing bills or information is a form of editing, it is a form of censoring if you will, and I do not think we want our agencies given the task of trying to define what information is going to go forward to the public. The public is entitled to full notice, full disclosure, and passing this bill would diminish that. Please vote no. Thank you, Mr. Speaker.

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. What you have before you and this may sound like exaggeration, is one of the more important bills that will come out of our committee's jurisdiction this session. It is about more than public notices, Ladies and Gentlemen, it is about budget decisions, and that big cloud that has been hanging over our head collectively has been

the choices that are challenging that we need to make on behalf of the citizens that we represent in this great state.

Let me go through the list of some of the citizens in my district along, in Gorham that would benefit from the cost savings that could be achieved through the passage of this Majority 12-1

Committee Report. I think of the email and the call that I get from Mr. and Mrs. Garcia, a foster family, who may have funding cut with the Supplemental Budget that we are considering at this time, or Ms. Valentine, who has already, through curtailments, lost her home hospice care. Mr. Speed, who is a teacher and does not want to see further cuts to education, both for his family because he is in the vocation, but also for the education of future generations. The unnamed citizens that have contacted me, it would not be right to mention their names on the floor here, which are afraid of domestic violence cuts that are being proposed or the health care for children that may be exposed with the Supplemental Budget. This is beyond money, these issues that we are dealing with in the Supplemental Budget. But cost savings can be achieved through the passage of this bill and as the good Representative from Blue Hill did mention, we are not removing transparency, rather we are becoming more efficient that we are providing into the newspaper.

The other thing that should be mentioned is a bill that will be coming to the floor from our committee, that actually looks to streamline the process of the Administrative Procedures Act, and I am actually proud to say that we will have a bill that will have state agencies, in their summaries, look to put things "in plain English," so that when you look at a summary in a newspaper, you will know exactly what the rule is proposing to do. We have a decision of whether or not to make this process of government more efficient, more cost effective and equally transparent compared to what we have today.

Further, there is mention in this bill concerning municipal notices and allowing through the votes of the citizens for local control to change how those notices are distributed. Ladies and Gentlemen, the issue that we are discussing may seem mundane on the face, but really this is a fundamental question about the future decisions we will need to make in the coming weeks. I would urge you to support the Committee Report, and I would ask the Clerk at this time to read that Report. Thank you, Mr. Speaker.

Representative **BARSTOW** of Gorham **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative **BURNS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of this bill. In my opinion, the bill does not go far enough. The savings that we are talking about relate only to the publication of rule changes and not public notices as well. It has been pointed out that these public notices are not reader friendly. It has been my observation and experience that people that come before my committee do not come there because they have been notified in the public. In fact, it has been my experience and observations, that the public is not aware of rule changes because of anything published in a newspaper, but because they find themselves in violation of rules that they knew were not changed.

I think that the news industry is in the industry of reporting news. Everything that happens here is news. If we schedule a public hearing, it is newsworthy, and we should not have to pay for that. We should not have to subsidize the newspaper industry, especially at a time when we are cutting services to the elderly and to children, to people in need. We should not be subsidizing the newspaper industry. They should be reporting

what goes on in our committee rooms. I pointed out to you last year that our Insurance and Financial Services Committee held hearings all day long, on a viable solution for the health care crisis. They immediately went into work session and killed all but one of the bills, a very viable solution to the health care crisis, and nothing happened in any newspaper in the State of Maine until well after the bills, and it was very minimal what happened. The newspaper industry needs to look at what happens here and report it as news, not because we pay them to do something, and what we pay them to do is virtually ineffective. Ask the people who come before your committee rooms, if they are there because of public notice, or if they are there by a lobby that has invited them to come and participate.

The other part of this issue is that it is not just newspapers. We watch TV, or society watches television, they listen to the radio. This should be part of public service announcements. The public should be notified about everything that goes on here through public service announcements. I suggest to you that this is a step in the right direction and I urge you to vote for it, but it does not go nearly far enough. We need to hold the fourth estate of government, the media, the proverbial fourth branch of government accountable to its role. Its role is to pay attention to what goes on here and deliver it to the people, so that the people are informed and come Election Day, they can make decisions that make sense. Thank you, Men and Women of the House.

The **SPEAKER**: The Chair recognizes the Representative from Ellsworth, Representative Crosthwaite.

Representative **CROSTHWAITE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We all realize that there is a need for this government to hold and in some cases, decrease expenses, and I would like mentioned of the fact that the major Maine newspapers have not increased legal notice rates in the past five years.

LD 1878 is crushing blow to open a transparent government. We do well to remember that it is government's responsibility to provide complete information about what is going on. It is also government's responsibility to make sure the systems in place provide full responsibility and accountability. Oversights by third parties, newspapers, in this case, provide that accountability and eliminate opportunity for hidden agendas, hidden costs, and secret agreements.

Paid newspapers have endured for some 200 years, and are the historical record and voice of the communities we serve. Through generations, Mainers have turned to them to be fully informed on what is going on in their communities. Getting fully informed includes a close reading of complete government notices; therefore, Mr. Speaker, I rise today in opposition, again, to the pending motion on LD 1878.

We are considering a bill that would eliminate the requirement for the state to publish public and legal notices in newspapers, and instead to post notices of state government activity on the internet. This repeal will unquestionably negatively impact the ability of the public to understand, to react to what we do here in Augusta. From my perspective, we should be doing everything we can to ensure that the public is made more aware of what the Maine Legislature and the other branches of government are doing. It is not time for enactment of this proposal, just like it was not time in 2007, or 2005, or 2003, or 2001, or 1999, or 1997, or 1995. The good sponsor of this bill, the gentle lady from Buckfield, has very good intentions that this bill will generate savings for the state. This is a noble goal; we all respect that. We would be thereby generating savings by eliminating one of the fundamental basis' of our representative republic.

Publishing public notices in newspapers has been part of government since the first session of the United States Congress.



The newly formed Congress, in 1789, declared that all legislative actions and executive decisions would be published in at least three public newspapers. This was done so that all citizens could understand and be able to participate in the democratic process of this new nation. The purposes for which the original public

notice laws were originally enacted still hold true today. While we are being an increasingly wired society in more ways than one with better access to the internet, Maine is just not there yet. Only 50 to 60 percent of Mainers have access to any of the internet, either at home or at work; and only 13 percent of Mainers have high-speed internet or those connections necessary. Contrast this to nearly 100 percent access to newspapers, at least through the mail, by all Mainers. Importantly, those Mainers with limited or no access to the internet are often the most vulnerable of our citizens: the elderly, the low-income Mainers, and the rural folks. A repeal of the requirement to publish public notices in newspapers in favor of the internet comes at the expense of these citizens, and this state government has an unenviable track record in the area of, as we all know, of computer competency. Can you say Department of Motor Vehicles? Can you say Inland Fisheries and Wildlife? Can you say observation tower elevator? Can you say MECMS? I can just imagine a public notice for an important committee meeting to be held 14 days from now, being posted on the website in about 18 months, or better still, four years from now. Mr. Speaker, I respectfully suggest that we cannot afford, either financially or legally, to be a party to any more of these infamous multimillion-dollar blunders.

In addition, Mr. Speaker, and Ladies and Gentlemen of the House, public notice communications are so important that citizens should not have to seek them out from the many millions of websites, rather government should distribute these communications to the citizens in such available and far-reaching publications as you morning or weekend newspaper. As citizens, we should not have to seek out what our government is doing. It is a responsibility of government to provide to all its citizens, its publican legal notice in the most accessible form of communication possible. Maine prides itself and while it should, on its citizen activists and on its responsible government and one of the fundamental tenants of our government of Maine is providing adequate public notice. LD 1878 would irreparably harm our citizens ability to understand what is going on in Augusta. Therefore, Ladies and Gentlemen of the House, in the interest of open communication and in the interest of freedom of access, I sincerely ask that you vote against the pending motion, and move the Ought Not to Pass Report. I thank you, Mr. Speaker, and my distinguished colleagues.

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

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am very concerned about this LD. I believe that it is well intentioned, but I am concerned that it may be limiting access to important information, and I would pose a question through the Speaker for anyone who may have the information: What are the savings that are projected, that would be generated by this action, and are they sufficient to warrant limiting access? Thank you, Mr. Speaker, and Men and Women of the House.

The SPEAKER: The Representative from Lewiston, Representative Makas has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you, Mr. Speaker. I rise to answer the good Representative Makas' question. The Fiscal

Note is anticipating a savings of \$200,000. The current cost for these publications is \$500,000, so it is approximately a significant portion of what current practice is. So instead of \$500,000, it would be \$200,000 in savings, resulting in a cost of \$300,000.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Another view of that as we received testimony and certainly this is an estimate, there was not any in-depth analysis, and I have to say that the earlier comment that anybody in this House would be interested in diminishing the resources that go to those most in need, is certainly a disappointing thought.

My view of the savings is twofold: One is that if you are going to condense the rule, the articulation of rules, that means the dedication of staff to do that, it means maintaining websites, it means maintaining phones and email basis for responding to people who are going to come to you through that process, so there is a certain cost involved there that was not calculated, and I have a feeling that that cost would erode the estimated savings. It is unknown, so I would have to leave it at that, but so is the actual savings unknown.

Secondly, as we speak, we are aware that the newspapers are negotiating to change their rates and that will probably have a positive effect, so the savings would further erode based on those outcomes. I think it is a work in progress in that sense and the true savings, if there are any, would not be worth the diminishing of opportunity for information to those constituents that live in our district. Thank you, Mr. Speaker.

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise again to make two clarifications with concern to the rebuttal debate that has come following my first reason for rising.

Firstly, notices will continue to be in the newspaper. There will not be removal of notices as was originally proposed in the original draft of this bill. The savings would be achieved by the reduction of what is printed specifically in those legal notices. Further, we are looking to have more clarity in those notices by not only providing a contact for the agency that is proposing the rule, but also including an email address, a phone number and traditional postal mailing address for those that continue to want to utilize that option.

Secondly, my good friend and colleague from Ellsworth alluded to technological issues that we have had with specific agencies and departments in the Legislature. I want to clarify that the improved clarity that would be found through having more information on the internet concerning rule proposals, would be administered through the Department of the Secretary of State and with the InforME Board, and this is actually a good opportunity beyond this debate of this bill to remind the body that the State of Maine has been recognized as one of the best state government websites in the Nation.

Further, if I could speak for my committee and the 12-1 Majority that voted in favor of this proposal and amendment, I would hope that they would have the same faith that I do with regards to the job they would do in moving this forward. I would urge you to support the Majority Ought to Pass as Amended Report. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. My good Chairman just corrected a couple pieces of information I wanted

to bring to your attention, so I will briefly highlight what will be in the newspaper notices, and these are only rulemaking notices. This is the only type of notice that we are purchasing that would be affected by this committee amendment.

Every rulemaking notice, regardless of the media that it appears in, will include: the hearing schedule details, how and when one can submit comment or argument regarding the proposed rule, a brief summary of the substance of the proposed rule; a web address, where one can find more information, where one can find a statement of impact on small business regarding the proposed rule; the fiscal impact on municipalities, if one is anticipated; a name, address and phone number of a staff person who can provide additional information and printed versions for details. That list of information will appear in every rulemaking notice, whether it is an internet notice or a published notice in the newspaper.

The difference here, folks, is that we pay for column inches in the newspaper and we do not pay for column inches in electronic media. We want to keep enough information in the newspapers to keep our public informed and to invite them to participate in the process. What we cannot afford to do is continue to publish the minutia in that media, so this simply reduces the column inches, meets our obligation in terms of effective notice for our constituents, and maintains the full text, in as much text as the agencies may choose to include on the internet, at no additional cost.

I am not sure if you are aware of this. I started by asking folks where we wanted to talk about this bill, what day the rulemaking notices appear in your newspaper. They appear on the same day; they are always on Wednesdays. The content of those rulemaking notices appear on the Secretary of State's website the Friday before. They are on the Secretary of State's website going back 11 years. They are archived there, you can look them up, you do not need anybody's help and you can do it at 2 am from your computer if you choose, so to suggest that there is somehow technological barriers that might prevent that media from working in tandem with newspapers, I think is misunderstood. It is already there at no cost to us. It is part of the service provided by Maine.gov, which is not something that you will see an appropriation for coming through our budget, and will continue to be made available there.

In fact, suggestions have been made at how we can improve the quality and the content of the information there in ways that we cannot do that with a newspaper. I cannot, from my cup of coffee and my newspaper in the morning, touch my finger on a link and find the text of the proposed rule changes. We are anticipating we can put that level of connectivity on the Secretary of State's website. I wish for you folks to understand that, in fact, we hope to enhance the availability of information, not diminish it, but doing it in a cost effective way so that we can reallocate limited existing resources to those areas or those concerns that we think more appropriately warrant that expense. Thank you for your time.

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

Representative **SAVIELLO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am not going to repeat the issues about rural areas and internet and the fact that libraries are open only two days a week, maybe for an hour during that week. I am going to bring up two new points.

Point number one is an email I received from a chaplain of a hospital that talked about disadvantaged and disabled individuals that do not have the ability or skills to access information through the computer.

The second point I want to bring up is just what is said, I do

appreciate the efforts to change the notice that we have in front of us; however, I know many of the complaints that I get are the phone number there at the bottom of those notices that people have called and there is nobody there; the emails they send and there is nobody there. So they call me and I call, and I have had mixed results until I happen to drop the name that I happen to sit in the House of Representatives, and miraculously, immediately, in fact sometimes five minutes after I call, I get the call, so I appreciate the effort but I cannot support this bill. Thank you, Mr. Speaker.

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

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In my other life, I was an operations manager for newspapers and the assistant vice president. I stand here to tell you all that nobody could say it any better than Representative Crosthwaite said it. This is a bad bill and follow Representative Crosthwaite's light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Beaudoin.

Representative **BEAUDOIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I feel that this is another way of taking away people's rights from them as a lot of people, especially the elderly, do not have computers and that the only way that they can learn about what is going on is through newspapers. As Representative Barstow said, again, you can read it through email. Again, that is computers. So I just feel that I do not support this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise as a cosponsor to this particular bill, and I think that the good Representative from Buckfield has worked very hard and diligently on this bill.

Originally, the bill would have done away with these notices, but now she has come up with, by working through the channels, a condensed version which has all the information that we need to find out what the rule is all about.

With regard to the phones, I feel it is a bad thing if we have phone numbers that nobody is answering those phones, but we are not required to put extra people there because that is always listed in the notices of rulemaking, and it will be continued in this process, so it does not need anybody extra to do the webpage because that is already in progress. It is not a bill for the future; it is a bill for today, because today we have all sorts of holes in our budget, and this is a small step, but a very important one to help us cut out some of those holes.

I think I will go back even farther than some of the others and just mention that it was Benjamin Franklin who said that if you take care of your pennies, the dollars will take care of themselves. Well, compared to the size of our budget today, the \$200,000 is one of those pennies, and I think that we need to pass this bill and move forward. Thank you.

The SPEAKER: The Chair recognizes the Representative from Caswell, Representative Ayotte.

Representative **AYOTTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I realize that Representative Joy is correct 95 percent of the time, but he cannot be correct all of the time. I realize that not many votes are changed by speaking on the floor of the House. As a matter fact, I believe that the more common sense a speech has, the less votes it garners. I speak, however, for the people of my generation and older, who rely on the newspaper for information to keep up to date as to what is happening in their government; therefore, I cannot support the bill at this time. I do, however,

think it is a bill that would be appropriate at some time in the future. Thank you, Mr. Speaker.

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

**ROLL CALL NO. 221**

YEA - Babbidge, Barstow, Beaudette, Berry, Berube, Bliss, Boland, Brautigam, Burns, Carey, Carter, Casavant, Cleary, Cotta, Craven, Cray, Curtis, Dill, Driscoll, Duchesne, Eberle, Faircloth, Farrington, Finch, Fisher, Fletcher, Gerzofsky, Gifford, Giles, Gould, Greeley, Hanley S, Harlow, Haskell, Hayes, Jackson, Joy, Knight, Lansley, Marean, McDonough, Miller, Mills, Norton, Patrick, Percy, Perry, Pieh, Pingree, Piotti, Pratt, Priest, Rines, Samson, Sirois, Smith N, Strang Burgess, Sykes, Theriault, Thomas, Treat, Trinward, Tuttle, Valentino, Wagner, Watson, Weaver, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Adams, Annis, Austin, Ayotte, Beaudoin, Beaulieu, Blanchard, Browne W, Bryant, Cain, Campbell, Cebra, Chase, Clark, Connor, Crockett, Crosthwaite, Eaton, Edgecomb, Finley, Fitts, Flood, Hamper, Hinck, Hogan, Johnson, Koffman, Lewin, MacDonald, Makas, Mazurek, McFadden, McLeod, Miramant, Muse, Pilon, Plummer, Prescott, Rector, Richardson D, Richardson W, Robinson, Rosen, Sarty, Savage, Saviello, Schatz, Silsby, Sutherland, Tardy, Thibodeau, Tibbetts, Vaughan.

ABSENT - Blanchette, Briggs, Canavan, Conover, Dunn, Duprey, Emery, Fischer, Grose, Hill, Jacobsen, Jones, Kaenrath, Lundeen, Marley, McKane, Millett, Moore, Nass, Pendleton, Peoples, Pineau, Pinkham, Rand, Simpson, Walker, Weddell.

Yes, 71; No, 53; Absent, 27; Excused, 0.

71 having voted in the affirmative and 53 voted in the negative, with 27 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "B" (H-684) was READ** by the Clerk.

On motion of Representative BARSTOW of Gorham, **TABLED pending ADOPTION of Committee Amendment "B" (H-684) and later today assigned.**

SENATE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (S-412)** - Minority (6) **Ought Not to Pass** - Committee on **UTILITIES AND ENERGY** on Bill "An Act To Amend the Charter of the Kennebunk Light and Power District"

(S.P. 422) (L.D. 1221)

- In Senate, Majority **OUGHT TO PASS AS AMENDED Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-412).**

TABLED - March 4, 2008 (Till Later Today) by Representative BLISS of South Portland.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED Report.**

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended 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 Winslow, Representative Fletcher.

Representative **FLETCHER:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a utility bill, which is not always the most exciting thing to talk about, but I will try to add at least my thoughts.

I can certainly understand why the people in Kennebunk are seeking to lower their electric rates. As many of you know, Maine has some of the highest electric rates in the Nation; actually, we are 38 percent higher than the national average. I can understand why they can see if I change from one supplier to another, I can maybe save \$150 to \$200 a year. I do not blame them. They are seeking relief. But I would suggest that LD 1221 and the Majority Report is the wrong solution, and I will try to explain that.

The history is that back in 1903, a line was drawn, and this was when the electric industry was in its fledging state. Everyone was starting up with small projects and in Kennebunk a line was drawn, and the Legislature approved that line. As good as we can tell, it was based on the pragmatic issue of the upper village and the lower village, and there were two entities that were serving. Along the way, CMP acquired—I think it is the lower village, I am not really sure—and that over the years, this has been a contentious issue. The people in Kennebunk, rightly so in some cases, saying we would like to be united; we would like to have all our service by one service provider, which is a legal monopoly as we do it in the State of Maine, and offers have been made to buy. As a matter of fact, there was an offer in 2001, in 2007, following the established laws and statutes of the State of Maine between willing buyer and willing seller but, unfortunately, for whatever reason, the seller was not willing. But Kennebunk Power and Light persisted, to their credit, and they even brought proceedings before the PUC under the existing process which were denied, and there was even legislation. That is a little bit of history; there is a lot more to it. I cannot say I was there in 1903 to really determine that is exactly what happened, but that is my understanding.

So what does LD 1221 do? It expands Kennebunk Power and Light service district to another's franchise area, which is in a way taking another's property; it is another company's business areas, which they have maybe investments in over the years. This is against the wishes of the current owner. Then it requires the PUC to arbitrate the value of the new assets. As I have said, offers have been made in the past. For whatever reason, the owner of the property said either that is not enough or I do not want to sell. I do not want to sell my franchise; I want to keep it. But now, the PUC comes in and is the arbitrator of what the value is. Then it goes on to require, if the value determined by the PUC is not accepted by the buyer and/or the seller, the PUC then has to go and get an independent appraiser to try to answer the question of what is the value of the assets and that, based on the estimates we received in committee, I believe, was somewhere between up to \$100,000. By the way, all of us will pay for that because that will be spread to all of the ratepayers.

Finally, LD 1221 takes away the statutory authority of the PUC to approve the transaction or the sell. It says: PUC, even though that is your authority, you are removed from ever passing judgment whether this is the right thing to do or not. It leaves it solely, thou shall. Now, why is this important? It is only, I think, 1,464 meters—it is only 1,464 meters. I think, I cannot remember the total number of electrical usage but it is not a big ticket, so why is it so important? This will ask the Legislature to do an unprecedented act of saying we are going to override our statutes, our process, and we are going to decide and we are going to put the wheels in motion.

It is important to remember that the PUC has already considered this back in 2002 and, if I may, I will read from what they said in denying the petition. The PUC said, in part, if lower prices alone suffice to allow entry by a second utility, the concept of the utility franchise's service areas in a coherent, stable public utility system would be meaningless, and the utility boundaries

would be in a constant state of flux. I think that is significant. I think the PUC is saying, think of what you are doing.

The other thing that will happen is what will happen if this is implemented? What are the implications? Is it just 1,464? What are we sending the signal on? In the PUC's comments before our committee when we were considering this bill—actually it is a long history with the bill itself, I will not expand on the hours that we have spent on this bill between the last two years—in their testimony before the committee on this bill, they wisely cautioned the Legislature to consider the precedent that this bill will set. In the enactment of LD 1221, it would clearly be a demonstration of the Legislature's willingness to consider service territory realignment in the other parts of the states; low cost areas could become the subject of future legislation.

So who else might be coming to the Legislature to say, we want to go jump across the street and go some place else? We know that Madison Electric and CMP service areas currently involve sharing four towns. We know that Eastern Maine Electric Coop currently serves parts of 24 towns, with the other parts of towns served by Houlton Water Company, Maine Public Service, or Bangor Hydro-Electric. Throughout the state, we have a mixture and these territories have been secured, committed to providing the security so that a utility can make a long-term investment into those infrastructures, because they had the security of their territory. Otherwise, if you think about it, why would they be willing to make long-term investments if they think that next session the Legislature might come back and decide you can jump, and we are going to put a process in place to take your territory away?

Now, LD 1221 does not say CMP has to sell, but the implications are clearly there, and the precedent that we will be establishing which may not seem significant, may have far-reaching consequences. I understand. I would like to lower my electric bills by \$150 to \$200 a month. I do not blame them, they have an absolute right to seek better solutions, but this is not the better solution. This is going to set a ripple effect, spread the costs to everybody else without really getting to the true issue. I would ask you to defeat the Majority Report and allow our existing laws and processes to work the way they are intended. Please ask yourself this question: Do we really want to open this door, do we really want to supersede the authority and the process that we have given the PUC to fulfill, and are we going to be the next real estate agents that are going to decide which territory we are going to put on the block to transfer? This is a complicated issue. I appreciate your consideration and your time, I know it is not the most exciting thing to talk about, but just give it some thought. There is a solution to this, but it does not involve the Legislature becoming the last place you go.

Just think of this—one more thought, and I know that I have overindulged you with this—but think about this: What if your neighbor decided that they liked your house. They wanted your house. They came to you and said, "I want to buy your house," and you said, "No, I don't want to sell. I like it here." But then your neighbor goes to the town or legislative body and says, "I want you to pass a special, unprecedented law that allows me to change my deed to include this property, which I really do not own, I have not reached an agreement to buy, but I want you to include it in my deed." Now, that is a simplistic example, but that is a little bit of what this is. It is saying the Legislature, the town, or we as a legislative entity are saying we are going to take your rights to this property away at least on the legal sense of what is in your deed, even though we are not going to force you to sell it, but now we have encumbered your property.

Let's just take this a step further: Let's just say you went to sell your house, they do a title search and all of the sudden they

find out that you do not have clear title, because your neighbor has encumbered your rights. I am not sure I think that is a good law, or a good way to go about it. I appreciate your consideration and your time, and I would ask you to defeat the pending motion. Thank you.

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

Representative **BLISS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I want to try clarifying just a few things here, but first of all unlike my good friend from Winslow, my kids would say that I probably was here in 1903. Mr. Speaker, most people in this state receive their electricity through what we call the standard offer. There are a few places in the state where communities own their own electric company. This happens to be one of them.

In this particular instance and in not very many others in this state, the people who live in the community own, have responsibility for, and control of their electricity company. Sometime between 1900 and 1910, and we think it was 1903, the Legislature drew a line near this community. We think it probably was not through the community, but it was near the community, and said you can serve your community, but over here, we give the right to another company, which, ultimately, was purchased by and is now part of Central Maine Power. It has been a long time since 1903 and the communities have grown. Now there are people who are part of the community and own and are responsible for this locally owned utility, who are served by another utility. My good friend is right: These people have come to us several times in the past six years and said help us, and they have also gone to the Public Utilities Commission, mostly because we have said that it where you have to go.

I think, every time this issue has come before the Utilities and Energy Committee, all of the members of the Committee have been very sensitive to the issue of not allowing the state to meddle in the affairs of corporations. And at no time has any report, Majority or Minority, in any of the bills that have come out of the Utilities and Energy Committee on this issue, at no time have any of those reports in any way hinted at a requirement that a party must buy or must sell. This bill does not require that either. This bill changes the charter of this community owned utility, to allow them to buy or sell. It allows them to make an offer, which may or may not be accepted. It also allows them to accept an offer should the other utility try to buy them. It is pretty clear. But at no time has anyone on this committee tried to get either company's charter changed to force a sale. I think that is an important issue here. We are not asking the state to intrude in a potential sale, or a potential offer and decline. It is an important next step to allow these two corporations to finally decide what is going to happen. It frees the community owned utility to have a charter that allows them to do what they hope they will be able to do, but does not force either side to take any action. Thank you, Mr. Speaker.

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

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am cosponsor of LD 1221, and I remind you that this is an "An Act To Amend the Charter of the Kennebunk Light and Power District." This bill is reasonable and appropriate and is a commonsense compromise. Now, I am a history teacher and I enjoy making connections and once I have a body of knowledge, I often like to share it, but I am going to resist part of that today. My students, when they ask me a question, sometimes my response in order to provide the proper background, begins in the 17th century. I will resist that. What I have done is I have prepared written

testimony to make sure what I say is finite and succinct, but it is very important and I hope that you will bear with me.

Why allow KLPD permission to negotiate to buy additional service territory? The answer is for simple justice, to allow all residents in the Town of Kennebunk to be served by their own utility company. It is legislative action of long ago that has caused this problem, and it is our legislative action today that can provide a process to correct it. As you know, this country city has gained electricity during the last two decades of the 19th century. The Town of Kennebunk began its own generation and distribution of electricity in 1893, and they did so as a municipal enterprise to serve the entire town.

I did some digging in the Law Library and the Archives, and I found some interesting facts: In 1903, after a fire, the Kennebunk Light and Power Company was very close to having new legislation passed. It got as far as passed to be engrossed, granting it a charter and bonding authority to provide electricity, once again, for the entire Town of Kennebunk, but a week later an amended version was pushed through that included an exception. A straight line was defined that prohibited the southeastern portion of the town from receiving municipal electric service. Why? The answer became apparent when I found it two weeks later. Bonding authority was awarded by this Legislature to a new privately owned power company.

Now over the years, utilities have constantly changed service territories by acquisition, and Central Maine Power purchased that territory and services it today. The decision by this Legislature to partition the Town of Kennebunk has caused some of our residents into the position of being financially liable to their own municipal utility, while not being able to benefit from the price or the service of their own utility. That unfairness is caused by an arbitrary geographic line adopted unwisely by this body in a private and special law 105 years ago this week.

The town officials have expressed interest in making the town whole under Kennebunk Light and Power for the last 35 years. The town officials have supported this for that long. The residents who have been segregated, those CMP customers who live east of that line, they have met and sought to be under Kennebunk Light and Power for many years. Finally, a year ago last fall, a town-wide vote, including the 80 percent of town not in this situation, was taken with overwhelming support for Kennebunk Light and Power to serve all residents within its borders. Town officials, the residents affected and, finally, an 89.43 percent vote by all of Kennebunk clearly demonstrates that the entire town is united on this issue—that was not done in 1903. The Public Advocate, whose mission is to protect the consumers that are served by KLP and the 540,000 consumers served by CMP, as well as the shareholders, made suggestions that were addressed and now the Public Advocate is on board with no further opposition.

I want to thank the Utilities and Energy Committee for giving their considerable time and attention to make this bill fair to both sides. This open wound has plagued this small group of citizens for a long time, and to their credit, they have done what I encourage my students to do: get active and petition their government. We legislators, in turn, have spent time and resources hammering out this compromise which guarantees not results, but opportunity, establishing a process for resolution.

Regarding the comments of my good friend and able legislator from Winslow, this did come to the PUC seven years ago. At that time, there was a considerable price differential between the two; today that has been considerably reduced because of expired contracts, the favorable contracts that we once had at KLP. But one of the reasons that the PUC determined not to make a finding, why did they punt, is because it

was the Legislature that specifically drew the line that prohibited service to that small part of town, and they felt it should be the Legislature that readdresses that.

I want to mention that price is not the only issue here; it is also service. The police and fire departments have anecdotal evidence to tell you about shortcomings in service, but we all know about what happened recently in an ice storm and the demands on all utilities. But it is true that for CMP to service this part of Kennebunk, if they are coming off Exit 25 Kennebunk on the Turnpike, they have to pass through six miles of KLP territory before they get to this portion where their customers live in Kennebunk.

Finally, regarding precedent, what we see as a very unusual circumstance is the liability issue here. We are talking about if KLP should come under a major lawsuit; these CMP customers in Kennebunk are financially liable because KLP is a municipal entity. If CMP comes under a major lawsuit, these CMP customers in Kennebunk are liable because they would be hit for compensation through their rates. That is an unusual and unfair situation.

I also want to mention to you that I do not believe that this is a partisan issue. We have had thus far in the legislative process and will have, I expect, bipartisan support. I ask each of you for help. In the face of heavy pressure from a giant and powerful utility, this is an opportunity for each of us to do the right thing. LD 1221 does not force anything. In this unique situation, it ends a prohibition by removing a line. The Legislature caused this inequity; the Legislature should correct it, not by giving territory to another utility like we did in 1903, but by allowing a process to take place for it, hopefully, to be purchased for a fair price, fair to both sides. This is the right thing to do. I urge you, I plead with you to vote its passage. Thank you, Mr., Speaker.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **FLETCHER**: Thank you, Mr. Speaker. Does Kennebunk Power and Light District serve only the township of Kennebunk, or does it also server other townships adjacent to it?

The SPEAKER: The Representative from Winslow, Representative Fletcher has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The answer to the question is the KLP does, in fact, serve customers outside of the corporate town charter, which is technically inside the CMP territory but that is allowed by the PUC rules, and that is not uncommon to that community but is done in many other places around the state.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. One of the premises that we have been hearing is the sanctity of the Town of Kennebunk. That was the premise. I understand that premise, there is logic to it, but that is not the issue we are talking about. Just as we have just learned, Kennebunk Power and Light District serves beyond the town geography. That is due to the fact that franchise areas were established that do not necessarily bind the community to only their community. It is a logical extension of who is there and who can provide the service, both historically as well as the assets. I would ask you to consider that. I understand the arguments; I agree with my good friend

that this is an issue that we should resolve, but I would also ask you to consider that this is a little bit more complicated than just the Legislature making a mistake back in 1903—maybe they ran out of ink at the inkwell at that point and could not extend it. This is an important issue and I would ask you, as I am sure you will, to consider it as such. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I find myself in the odd position of being on the Minority Report, opposite my good Chair. I would also like to have a change in the mechanics of this organization and have a button that says maybe, because, in fact, both sides have presented their cases extremely well; both sides have what I consider to be very truthful facts in the situation, and lead you to believe that everybody is right. I am here to tell you that I believe that both sides are right, and that is one of the problems that the Committee, the many, many times that we have seen this bill, has been through. But yet, we have this bill in front of us with a Divided Report, and we need to do something with it.

I would contend that killing this bill is the best action. Electricity is a very delicate balance of service and need. We all understand that; we all get electric bills. That is why it is really not a partisan issue. I can argue both sides of this issue all day long, but I am not going to do that because I want to go to lunch too. The process in place, it has been used many times, the PUC is the place to house it. If the Legislature starts picking its battles on where they are going to allow franchise districts to change, then we might as well do away with the process that we have had in place for many years at the PUC that I have stood here and stand behind and will continue to do so.

The facts of the bill have been stated clearly. Number one, if the bill passes, it does not guarantee that that sale will happen. If the bill fails, then they can continue to negotiate with the other partner. If the bill passes and a sale is made, then that effect could be to all of us, increase in electricity rates. That is the balance of power and need and revenues. That is why the committee of jurisdiction and this Legislature has many times over worked very hard to keep big users on the grid. Anytime you remove someone from the grid, or you take it out of CMP territory and you change the dollars and you change the flow, you change the rates. Everything we do has an impact on rates. If this goes forward, it will have an impact on rates. It may also encourage others that have divided jurisdictions around the state, to come in and go through the same process. Cherry picking through this process is not the way to do it. The PUC has made their determination on it because of the rates already, and I would encourage all members of the body to vote against this motion. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Winterport, Representative Thibodeau.

Representative **THIBODEAU**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a lot more fun than talking about alewives, isn't it? I want to suggest to you that both of these corporations have made their intentions very clear to us, not only Central Maine Power, but Kennebunk Power and Light. We have a willing buyer; unfortunately, we just simply do not have a willing seller. They are not interested in discussing the issue and I guess that is hard for the people of Kennebunk to swallow.

I understand all of the arguments, we have heard them for months now, why that is an unacceptable conclusion. But the reality is that we have a corporation which is privately held, that each one of us has constituents that own shares of, and they

have said: No, it is not in our business plan; it is not in the best interest of our corporation to sell our assets in Kennebunk; we want to maintain them.

No, this bill does not force the sale, but what it does is it takes the PUC and it puts them in a position where they have to go and appraise some assets, which, oh, by the way, are not for sale, they have to appraise those assets. Who is going to pay for this appraisal? Is it Kennebunk Power and Light? No. It is the ratepayers of Central Maine Power, your constituents, my constituents, because the PUC is going to pay for this appraisal. Then, if they do not agree with the appraisal, we are going to go out and get another appraisal from a private appraiser.

Well, wait a second—we keep talking about all the budgetary problems we have here in this building. Well, why do we do things that just do not make sense? We know that Central Maine Power does not want to sell their assets; they have made it very clear that they do not want their assets appraised; they did not ask us to. Why are we going to go spend money to appraise these assets, unless we have the intention of maybe coming back and maybe forcing the sale at a later date, I am not sure, but again, I do not know how I go back home and tell the people back home that you might be a stockholder in Central Maine Power, but we really thought we ought to set up a potential for this force. I am not sure how that sells back home. Maybe it sells good in Kennebunk, but I just do not see how this is good for the ratepayers of the State of Maine, and I do not see how it is good for the stockholders of Central Maine Power as well, and they are my constituents and your constituents. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Connor.

Representative **CONNOR**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of this Majority Ought to Pass as Amended Report, and I want to speak to a few of things that the good Representative from Winterport stated. For example, would the current situation of will the ratepayers pay, who will pay for an appraisal—the PUC presently has the authority to say, Kennebunk Light and Power, if you want that appraisal, fine; you pay for it, so I think there is a fair amount of fear, of misinformation that is being shared unwittingly at times, and other times I think from certain members in the hallway could be not unwittingly, so I think that there are some things that need to be clearly established.

Iberdrola, when we talk about the folks that own CMP, Iberdrola is a Spanish conglomerate that owns CMP. CMP was owned by Energy East, a New York based company that sold out just a few months ago to a Spanish company. What I can tell you as resident of Kennebunk and a real owner of Kennebunk Light and Power—that means something to me. CMP is not a Maine company; it is a Maine company in name only. There are employees here and you know what, they do a good job, they work hard. In fact, we received a list on our desk today: The following people urge you to vote no on LD 1221, The Kennebunk Takeover Bill.

Now, there have been many members that have stood today to talk about what this bill will do, some of whom oppose it, and none of them—none of them—said that this is a takeover bill. In fact, they said this forces no one to do anything, and yet we get this list and it is called The Takeover Bill. Now, I am starting to think that I want to put an amendment in for a takeover bill if folks are willing to go for that, but I think it is important that when we look through this list, there are a few things that I note. There is a woman from Manchester on here, her name is Sara Burns. She is the President of CMP. There is another gentleman on here who is the lead public relations person for CMP, or Iberdrola, if you will. What is not on here is a single person from



the Town of Kennebunk, the area that we are actually talking about that is affected by this bill. Now that makes me question a couple of things.

Is this list an employee list, and they basically said to folks that you need to sign on and say this bill ought to go down to keep your job, because we also hear often that if we do this change, if we pass this bill, which does not force anyone to do anything, it just says the charter has changed; Kennebunk you can be bought and you can also buy; that is what this charter does, this charter change. But they want to tell you that if this happens, these 1,500 customers in Kennebunk will be the end of Central Maine Power as we know it. There will be layoffs, there will be layoffs so you employees get out there and call your legislator, email your legislator and tell them just how bad this will be. There are 600,000 customers for CMP; 1,500 customers of CMP represent 1/10th of 1 percent. Their fiscal health better not be in the situation that losing those customers, if it actually did happen as a result of final negotiations between a willing buyer and willing seller. If that were to truly do that than, certainly, we have bigger problems.

Now, when I look at this list again and I say there is not a single person on here from Kennebunk, I say, "Huh, is this an employee list, and do they, in fact, not have a single person living in Kennebunk working for their organization?" Therefore, when we look at the ice storm or the flooding that occurred back on Patriot's Day, when it took them four days to get power back up and running in Kennebunk, when Kennebunk Light and Power took 12 hours to have everyone in their district operational, and actually then cross the line from mutual aid, helped CMP despite this issue. So when I look at that, I say "Boy, maybe that is why the response time is a little slower," because in Kennebunk, when my power goes out—fortunately I live in the district that is served by Kennebunk Light and Power—when my power goes out, they are right there because they live in town; I see them at the grocery store. I honestly do not know if a single person from CMP lives in Kennebunk, because I do not see them; I see their trucks occasionally, I do not see them often. I see a Kennebunk Light and Power truck every single day.

When we talk about liability, there is a dual liability and Representative Babbidge talked about it. For me, I look at that and say now we are talking about the guy who owns an apple orchard, and everyday he is working on his trees, he is taking down apples, he does not get to sell them and get the profit, and he does not get to eat them, but if the orchard burns down, he is responsible. That is what we are talking about in this bill. The people that live in Kennebunk that own Kennebunk Light and Power are on the hook for any bad consequences that happen and yet they get none of the benefit. They do not get the service, and they do not get to see the folks every day and say "How are you?" I think that is important.

Some folks want you to worry that this change will be huge changes in service territories. Is this bill going to start an avalanche? No. There are only 10—10—consumer owned utilities in Maine, Kennebunk Light and Power is certainly one of them. The others are the islands, such as Swans Island; they will not be adding any new service territories unless there is a volcano there on the islands. That leads to about a handful, maybe a half a dozen cases in the entire state that could come here and do what we were are talking about, which is eight years of work, to say this issue, Kennebunk Light and Power is unique, it is different than the other utilities because, in 1903, the Legislature stuck a line in and it is still there today, over 100 years later, and the Legislature is the one body that can do something about that.

In 2002, you are correct: The Kennebunk Power and Light

went to the PUC and they were hopeful that maybe the PUC could help them, and in that denial, one of the statements that was made was that the PUC was glad they brought this forward, and I apologize. The proceeding helped focus the issues, and should provide guidance to the Legislature concerning what issues are properly within per view of the Commission and those that must be considered by the Legislature. This is one of the issues that must be considered by the Legislature, it is our job, we get a chance to fix it and no one else.

At the end of the argument, this bill depends on a willing buyer and a willing seller. Without both, nothing changes. We can pass this and if they are not willing, willing parties, nothing changes. CMP has been a very active and willing buyer. In fact, over the last 25 years there have been 16 occurrences of territories changing; CMP has been responsible for 10 of them. So they have done this before, they have a long list that they have changed and added service territories, or taken away service territories. Kennebunk wants the opportunity to be on that list.

Again, I think it is incredibly important to note that this bill does not force anyone to do anything. We pass it, it sits. If Kennebunk Light and Power makes a fair offer and Iberdrola, if they can get it translated to Spanish, accepts the offer, something changes. If they say no, nothing changes.

I probably have used my time, but I do want to close by saying the precedent issue has been addressed. In 1983, the good gentleman, the executive of the Chair of the U and E Committee, in Van Buren, had a boundary issue. In 1983, the Legislature—not the PUC, no one else—the Legislature dealt with that boundary issue, so the precedent is there. Since 1983, we have not seen a run on the market, we have not seen folks coming and saying "Let's change it now"; I mean maybe Kennebunk got the idea then, I do not know, but it has taken them until 2008 to actually be in the posture where you good folks and the friends from the other body, can put them in the position where we can be whole again. I appreciate your time. Thank you, please follow my light.

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

Representative CAREY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative CAREY: Thank you, Mr. Speaker. My question is regarding this dual liability of the other nine small electrical co-ops. Are there any other instances of dual liability in any of those other co-ops?

The SPEAKER: 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 Kennebunk, Representative Babbidge.

Representative BABBIDGE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will try to briefly address the questions of the good Representative from Winslow, posed earlier, as well as Representative Carey.

We do have many consumer utilities in Maine. Most of these utilities, however, are not just a municipal utility and have a larger area. They have one or two entire towns; they might have six or eight entire towns and then portions of another. I do not know the motive of the residents that have brought this forward over the last 40 years; certainly price was a consideration; certainly service, as we understand the problem to be in the last couple of major storms over the last couple of years, is an issue; but it is the dual liability problem in Kennebunk, in which legislature, specifically us, prohibited by private and special access of the municipal entity to have to continue—they already had it, but they

were prohibited from continuing service to that area by our action. That is what I see as unique, and I have been told by many sources that it is unique; however, I would say that it is not unique if somebody else is also facing an unfair situation of dual liability.

For instance, the question was asked, does Kennebunk Light and Power serve only the Town of Kennebunk? I am not sure if that is exactly the question, but I think it was part of the request. The fact of the matter is, I think by mutual agreement of CMP and KLP, there is a small portion of Wells that is served by Kennebunk Light and Power; however, those Wells residents are not citizens of Kennebunk. They have no dual liability responsibility. Do you see what I am saying? The dual liability issue is on those CMP customers that have what I would say is a cross to bear, and when I was newly elected four years ago, one of the first meetings I had was with a group of residents that explained this to me and, to me, it seemed like a no-brainer: We caused the problem, why can't we correct it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Casavant.

Representative **CASAVANT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We often talk in this body about fairness and things of that nature and when you look at this situation, it is an issue of fairness. The Representative from Kennebunk will probably be amazed that I am actually supporting something that Kennebunk is actually doing, but in this case I sincerely am.

I just find that when you look at the situation and you think about municipalities and what municipalities own, whether they are involved in roads or bridges or whatever, you would always assume that if the town is responsible and owns the particular item within the town that everyone has access to it. But in this case, because of an arbitrary line that was devised over 100 years ago, Kennebunk people who live in a certain section of Kennebunk do not have access to what they own, and I think that is the major problem, so if we are looking for fairness and if we are always talking about allowing our citizens to get the best deal, this truly is, as Representative Babbidge said, a no-brainer, because Kennebunk Light has been doing things for their town for a long time, and I believe sincerely that everyone in the town should have the right to have access to that which they own. Thank you.

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

Representative **PERRY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have a small consumer owned utility in my area, which is Eastern Maine Electric Cooperative. They have been concerned about this bill, not essentially about the fairness to Kennebunk Light or anything along that line, but the precedent that this sets for them as a utility. We are a consumer owned utility and actually serve with other utilities, about 24 towns. Their concern is that it is going to affect their ability to do the planning work that they feel they should be able to do, because of the precedent that this sets.

Now I will say, at this time, that I cannot support this because I really feel their concern; however, I do have an amendment that I would like to bring forward at some point, and with that amendment which would really just say that this is not a precedent, that the regular rules will go back into place, then I would be able to support that. But at this point, I cannot vote for this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the

Representative may proceed.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be brief, if that is possible for me to do.

I just want to add two more facts, and I am glad we are talking about the concept and the significance and the importance of the willing buyer and the willing seller. I think we are coming to a consensus, but the record is clear: January 9, 2001, Kennebunk Power and Light District made an offer to buy for \$1,022,000; the seller did not want that offer and they rejected it. Just about a year ago, February 9, Kennebunk Power and Light District made another offer: \$1,100,000 to buy; CMP refused that offer. How many times do we have to check the concept of a willing buyer and a willing seller? Is it three, four, five, six? How many times?

One other piece: We do have precedent; this Legislature has precedent. According to information I received from the good folks in Kennebunk, in the mid 80's, Madison Electric actually filed legislation in this body to expand their territory; the Legislature rejected that. We have precedent, we have offers. Maybe this bill is not going to do anything. Maybe after they figure out what it is going to really cost, they will say, no, I do not want it, but we will have established a precedent. Come here, we will put a mechanism in place to try to provide a little more coercion, a little more force to get the unwilling seller to a willing position. Do we want to do that? I personally do not want to do that, but that this what makes this body so great. We will make our decision and we will move on. Thank you very much.

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

Representative **BERRY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I view this issue as primarily one of self-determination and that is why I support the pending motion, and I want to briefly respond, if I may, as part of my remarks to the Representative from Lewiston, who asked an excellent question.

I do not know of any consumer owned utilities in which this is the case. There are a couple I have questions about, but my estimate knowing what I do know is that the number may be between zero and two.

Eighteen people that I represent are on the list that was given to us by Central Maine Power. They are employees of Central Maine Power, and I do not know under what circumstances they were asked by their employer to oppose this bill, or what they know about it, but I look forward to speaking to them and helping them to understand what this bill does, because to those 18 people it may be simply a request from their supervisor. I do not want to conjecture further about that. But the hundreds in Kennebunk who have asked for our support, this matters a great deal, and it really is a fundamental issue of fairness.

I do not believe that it is fair that I should own a utility, as those in Kennebunk outside of a service territory do, and yet not receive its services. I certainly do not believe it is fair that I should be asked to bare the financial liabilities of that consumer owned utility, which I own, and not receive its services. As a ratepayer to CMP and an owner of Kennebunk Light and Power, I am actually on the hook in two directions. I am the backstop for different utilities and I only receive the services of one. I think that is outrageous, and I do not know of a situation in the State of Maine where that is the case.

The metaphor of buying your neighbors house came to us earlier, and I think it is an interesting one. I might cast it a little bit differently than it was cast by my colleague from Winslow, who has spoken very eloquently on the subject and with respect to what the bill does, very accurately. The one issue where I part ways is that the bill has been represented as an authorization to



buy that is almost a requirement. It is already the case that CMP can buy Kennebunk Light and Power District; it is in KLPD's charter that they can be bought by Central Maine Power. This bill would simply make it go both ways and allow the same right and privilege to KLPD, so that the neighbor can make an offer on his neighbor's house and likewise in the other direction. I think that is fair and appropriate, but I certainly do not believe that I should be paying my neighbor's insurance, and I certainly do not think that my neighbor should be allowed to make an offer on my house and I should not be allowed to make an offer on his. This is an issue of fairness; it is an issue of self-determination.

Again, I ask that you consider not the few employees who have been asked to sign on to a petition that they probably know nothing about, but rather that we consider the hundreds of people in Kennebunk who are really being treated unfairly under the current status quo.

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

**ROLL CALL NO. 222**

YEA - Adams, Babbidge, Barstow, Beaudette, Beaudoin, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Browne W, Burns, Cain, Campbell, Carey, Carter, Casavant, Chase, Connor, Craven, Crockett, Crosthwaite, Dill, Driscoll, Duchesne, Eaton, Eberle, Faircloth, Farrington, Gerzofsky, Harlow, Haskell, Hayes, Hinck, Hogan, Jackson, Koffman, Lewin, MacDonald, Makas, Miller, Mills, Miramant, Norton, Patrick, Pendleton, Percy, Pieh, Pilon, Pingree, Piotti, Pratt, Priest, Robinson, Rosen, Samson, Savage, Saviello, Sirois, Smith N, Theriault, Tibbetts, Treat, Trinward, Tuttle, Valentino, Wagner, Watson, Weaver, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaulieu, Bryant, Cebra, Clark, Cotta, Cray, Curtis, Edgecomb, Finch, Finley, Fischer, Fisher, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Greeley, Hamper, Hanley S, Johnson, Joy, Knight, Marean, Mazurek, McDonough, McFadden, McLeod, Muse, Perry, Plummer, Prescott, Rector, Richardson D, Richardson W, Rines, Sarty, Schatz, Silsby, Strang Burgess, Sutherland, Sykes, Tardy, Thibodeau, Thomas, Vaughan, Woodbury.

ABSENT - Blanchette, Briggs, Canavan, Cleary, Conover, Dunn, Duprey, Emery, Grose, Hill, Jacobsen, Jones, Kaenrath, Lansley, Lundeen, Marley, McKane, Millett, Moore, Nass, Peoples, Pineau, Pinkham, Rand, Simpson, Walker, Weddell.

Yes, 73; No, 51; Absent, 27; Excused, 0.

73 having voted in the affirmative and 51 voted in the negative, with 27 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-412)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 6, 2008.

**HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-695) - Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY on Bill "An Act Regarding the Sale of Firearms to Minors"**

(H.P. 1435) (L.D. 2051)

TABLED - March 4, 2008 (Till Later Today) by Representative SYKES of Harrison.

**PENDING - ACCEPTANCE OF COMMITTEE REPORT.**

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

Representative **FITTS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I really do not

want to drag out our morning, noon, afternoon anymore than we are presently involved, but I would like to pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative **FITTS**: Thank you, Mr. Speaker. As an individual who—I want to pose a scenario, I guess, for anyone who can clarify it for me: If I am the individual, not the parent or guardian of a child under 16, and I am on a hunting outing, and when that child shows up at either hunting camp or wherever we happen to be, he takes a gun out of a case and it is not an appropriate gun for him; it is a .300 Savage and he is 12 years old, he can hardly pick it up. I have an extra gun; I am his uncle, and I loan or give that gun to that child, but I do so without the parent's permission, I do that transfer—and by the way I read this bill, that transfer, I read it as it might be an illegal act—but I do it without the permission, or at least the explicit permission of the parent or guardian. Have I, as that person's uncle, committed a Class D crime? I look for any answer from anyone on the Committee that could help.

The SPEAKER: The Representative from Pittsfield, Representative Fitts has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Pittsfield, Representative Fitts, has asked a hypothetical question about a 12 year old and a transfer of a long gun, a rifle, or a shotgun. The question really is not relevant to this particular bill.

The bill speaks not to those under 16; the bill speaks only to those 16 and 17 years of age. The bill is narrowly focused; it prohibits the sale of long guns, rifles and shotguns, to anyone 16 or 17 years old without the parent's or guardian's permission. In fact, the bill narrowly defines sale as providing a long gun, a rifle, or a shotgun, for consideration. It does not speak to transfer; it does not speak to anyone under 16; it speaks only to those 16 or 17. Ladies and Gentlemen of the House, the basic question this asks is should we allow a long gun, a rifle or a shotgun, to be sold to a 16 or 17 year old juvenile with mom or dad or the guardian's permission? I do not think we should. Thank you.

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

Representative **FITTS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have the Amendment in my hand, the Committee Amendment, which under Section 1, subsection 2, it says: "A person is guilty of unlawfully transferring a firearm to a person under 16 years of age if that person, who is not the parent, foster parent or guardian of the person under 16 years of age, knowingly transfers a firearm to a person under 16 years of age. Violation of this subsection is a Class D crime." Above that, under Section 1, subsection 1, A.: "'Transfer' means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration." I think this amendment deals with transferring to somebody under 16, and all I want is clarification as whether that is a legal act under my scenario or not, if somebody could so clarify.

The SPEAKER: The Representative from Pittsfield, Representative Fitts has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Although I was not involved in the drafting of this bill, it appears clear, and I understand the staff at the Criminal Justice Committee are very able drafts people. What the gentleman is referring to is a

reiteration of the current law. If he will look at the last line of the substance of the bill, Section 4 that is struck out, it says: "Unlawful transfer of a firearm to a minor is a Class D crime," so it is already a Class D crime to do what the gentleman proposed. What the change does is make it only a civil violation to sell to a person 16 or 17 years old. That is my understanding of the bill; that is the only real change; it does not change current law respecting transfers or sales to kids under 16. Thank you.

The Chair ordered a division on the motion to **ACCEPT** the Unanimous **Ought to Pass as Amended** Report.

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

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

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

**ROLL CALL NO. 223**

**YEA** - Adams, Annis, Austin, Ayotte, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Browne W, Bryant, Burns, Cain, Campbell, Carey, Carter, Casavant, Cebra, Chase, Clark, Connor, Craven, Crockett, Dill, Driscoll, Duchesne, Eaton, Eberle, Faircloth, Finch, Finley, Fischer, Fisher, Flood, Gerzofsky, Giles, Gould, Greeley, Hamper, Hanley S, Harlow, Haskell, Hayes, Hinck, Hogan, Johnson, Knight, Koffman, Lewin, MacDonald, Makas, Marean, Mazurek, McFadden, Miller, Mills, Miramant, Muse, Nass, Norton, Pendleton, Percy, Pieh, Pingree, Piotti, Plummer, Pratt, Prescott, Priest, Rector, Richardson D, Rines, Robinson, Rosen, Sarty, Saviello, Schatz, Silsby, Smith N, Strang Burgess, Sutherland, Sykes, Thibodeau, Tibbetts, Treat, Trinward, Tuttle, Valentino, Wagner, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

**NAY** - Cotta, Cray, Crosthwaite, Curtis, Edgecomb, Fitts, Fletcher, Gifford, Jackson, Joy, Lansley, McLeod, Patrick, Richardson W, Savage, Tardy, Theriault, Thomas, Vaughan, Weaver.

**ABSENT** - Blanchette, Briggs, Canavan, Cleary, Conover, Dunn, Duprey, Emery, Farrington, Grose, Hill, Jacobsen, Jones, Kaenrath, Lundeen, Marley, McDonough, McKane, Millett, Moore, Peoples, Perry, Pilon, Pineau, Pinkham, Rand, Samson, Simpson, Sirois, Walker, Weddell.

Yes, 100; No, 20; Absent, 31; Excused, 0.

100 having voted in the affirmative and 20 voted in the negative, with 31 being absent, and accordingly the Unanimous **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-695)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 6, 2008.

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-708)** on Bill "An Act To Decrease Energy Costs on Swans Island and Frenchboro" (EMERGENCY) (H.P. 1425) (L.D. 2041)

Signed:

Senators:

BARTLETT of Cumberland  
SMITH of Piscataquis  
HOBBINS of York

Representatives:

RINES of Wiscasset  
FLETCHER of Winslow  
ADAMS of Portland  
FITTS of Pittsfield  
BERRY of Bowdoinham  
HINCK of Portland  
BLISS of South Portland  
BLANCHARD of Old Town

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

Signed:

Representatives:

THIBODEAU of Winterport  
CURTIS of Madison

**READ.**

On motion of Representative BLISS of South Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-708)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 6, 2008.

**COMMUNICATIONS**

The Following Communication: (S.P. 872)

**STATE OF MAINE**

**123RD MAINE LEGISLATURE**

March 4, 2008

Sen. Dennis S. Damon

Senate Chair, Joint Standing Committee on Marine Resources

Rep. Leila J. Percy

House Chair, Joint Standing Committee on Marine Resources

123rd Legislature

Augusta, ME 04333

Dear Senator Damon and Representative Percy:

Please be advised that Governor John E. Baldacci has nominated Richard Ruhlin of Brewer for reappointment to the Atlantic Salmon Commission.

Pursuant to Title 12 M.R.S.A. §6137, this nomination will require review by the Joint Standing Committee on Marine Resources and confirmation by the Senate. This was formerly under the jurisdiction of the Joint Standing Committee on Inland Fisheries and Wildlife. This letter shall serve as a correction to the Governor's previous letter of February 28, 2008.

Sincerely,

S/Beth Edmonds

President of the Senate

S/Glenn Cummings

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **MARINE RESOURCES**.

**READ** and **REFERRED** to the Committee on **MARINE RESOURCES** in concurrence.

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

On motion of Representative CROCKETT of Augusta, the House adjourned at 12:55 p.m., until 10:00 a.m., Thursday, March 6, 2008 in honor and lasting tribute to Madeleine Daniels, of Augusta.