

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

Pending - ACCEPTANCE OF REPORT

(In Senate, April 29, 1987, Report READ.)

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending ACCEPTANCE OF THE REPORT.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act Relating to Questions Put to the Electorate at Referendum"

S.P. 116 L.D. 289
(C "A" S-39)

Tabled - April 29, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, April 28, 1987, READ A SECOND TIME.)

On motion by Senator PERKINS of Hancock, Senate Amendment "A" (S-45) READ.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Thank you, Mr. President and members of the Senate. I ask for a Division and I urge you to vote against the pending Amendment.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, ladies and gentlemen of the Senate. The gentlelady from Kennebec has been very courteous and very kind through all of this, and it has been very trying, I am sure for all of us. What I have presented, is an amendment which will be attached to her piece of legislation, which incidentally, I spoke of its' behalf at the presentation of the Bill. I am supportive for her Bill and I have not changed my position on that at all. My amendment would act retroactively, that any referendum that are in the process at this point, would be treated in the same manner. I am asking that if that is good prospectively, that it should indeed, be as effective and good retrospectively. I would only ask that we do this. Then, I don't think it is any secret to anybody, that I would be hopeful to present an order and ask for a solemn occasion, asking the opinion of the court on whether or not the legislature has the right to look at the wording on this.

I am not asking, nor am I editorializing on the philosophy of the question. I am only asking that the court be given the opportunity to rule on our participation in the process. Having done this, and the courts' ruling, and should they not rule that we have this privilege, then the ball game is over. I would hope that neither I or my colleague would have to go through this bit of frustration again. Were they to rule otherwise, then I think we would want to address that at that time. But, my course today, is to ask the privilege of presenting to the courts, this question and this question only.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and members of the Senate. I would just like to point out to the Senate that a vote in favor of the adoption of this amendment is a vote to change the Maine Yankee referendum question, which is to go before the voters in November. I don't know how you feel about the closure of Maine Yankee, nor about the quality of the question that was attached to the petitions that various citizens signed, over 53,000 of them. Regardless, it seems to me and to 12 out of the 13 members of the Legal Affairs Committee, that it is really inappropriate to change the question that was attached to the petitions.

The process began almost a year ago and I believe it certainly would interfere with the on-going

process, and there are people, whether we agree with them or not, who are trying to work within the system for a change. I do believe that they would be extremely discouraged if we changed that system now.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you, Mr. President. For your "for what its worth column", I live closer to Maine Yankee than any legislator in the 113th Legislature, and I rise today in support of the good Senator from Hancock, Senator Perkins' amendment. I believe the wording of the referendum petition, whether intentionally or not, misleads the electorate. I don't think there is anything particularly sacred about that wording, and I will tell you why. I go to the polls on election day, I guess it sort of a nervous disorder that I have, but I do go to the polls, and I have watched the petitioners. I think they are well intentioned. But, they say to people either before or after they vote, "Are you interested in signing a petition?" The voter will probably say "What does the petition say?" In my district, one person said it just shuts down Maine Yankee. Another person said that it eliminates nuclear waste from being produced in Maine. I submit to you that the 53,000 signatures on that petition, probably wouldn't recognize the question as the one before us today. A lady wrote to me recently and she said "You people have done it again. You have confused us. I don't know how I should vote. I am opposed to nuclear waste repositories in Maine, but I do not want to shut down Maine Yankee. How would I vote?"

Recent surveys have shown that more than 80% of Maine voters are confused by the wording and favor a law requiring a yes vote for supporters of a referendum and a no vote for opponents of a referendum. The Maine Yankee referendum should stand or fail on its' merits and not be determined by voter confusion. People have a right to vote, but they also have a right to know what their vote means, and what the effect of that vote will be. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, men and women of the Senate. I would like to concur with the remarks of the Senator from Sagadahoc, Senator Cahill, with the regards to the collection of signatures at the polls. Nothing irritates me more than that issue, which has been around for a long time and I have always been lost on it. With regard to the way the question is worded, whether it ought to be yes or no, you have to remember that with regards to this issue of nuclear anything is Maine. The theme of the people who have been opposed to a high level nuclear dump in Maine, low level nuclear dump in Maine, the production of nuclear waste in Maine, has always been "No." The whole theme of their campaign has been "No." The signs that were at the different conferences that were held for the Department of Energy when they came here, was a whole sea of placards that said "No."

All of what they have been doing is the theme of "No," we do not want any nuclear waste. "No," we do not want high level waste. "No," we do not want any low level waste. That is their theme. And, I think to take that away from them and reverse that, is not fair.

Even if you do not agree with them, it still is not fair. They would have to completely re-educate and re-define their whole message to the people. That would be very confusing. I think you ought to leave it alone.

THE PRESIDENT; The Chair recognizes the Senator from York, Senator Estes.

Senator ESTES: Mr. President. It is interesting to note, if you look back a year ago when this question first appeared, this question was a result of deliberations between the Secretary of State's office and representatives of CMP and the Maine Nuclear Referendum Committee. After consultation, this was the question that came out of the Secretary of State's office and the question that appeared on the petitions. If we go back a little earlier than that, on April 2nd, when the petition question was first proposed to the Secretary of State's office, it was originally a question that would have been answered "yes", to close Maine Yankee down. This question has been around for over a year. The validity of the process and the question was upheld by the Attorney General's office in May of last year. The petitions, with the present wording, were presented to the people for their signature of support, from June until just prior to the November election. Approximately 53,000 people signed the petition and it was submitted to the Secretary of State's office to be validated. It wasn't until December 5th, that after analyzing polling data related to the referendum question, that questions were raised regarding the confusion of the question and the possibility of rewriting it.

So, we come down to the situation of does yes mean yes, or does yes mean no? We have been dabbling with it for several months now. Providing clear, concise and direct questions on referendum ballots has been just the issue the Legal Affairs Committee has been wrestling with for the past 2 months. L. D. 289 is a major step towards that goal and it received a 12 to 1 report of support out of that Committee. While L. D. 289 deals with all future referendums, the confusion of the proposal to close Maine Yankee remains. In the past, Maine voters have shown that they can figure out the most obtuse questions. Last years confusing Local Measured Service questions, and before that the 3 part question on low level nuclear waste dumping are just 2 cases in point. I believe that we should avoid confusing the question on Maine Yankee any more and resist this attempt to rewrite the question. To continue meddling with this referendum question, I believe is presumptuous of the ability of Maine voters to figure it out. Maybe, it is even under handed.

I urge you to defeat this amendment and instead place your energies to ensuring that the future questions mean what they say and say what they mean. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Dillenback.

Senator DILLENBACK: Thank you, Mr. President. I am also on the Legal Affairs Committee and I voted for Senator Kany's Bill. I was also opposed to any repositories in the Sebago Lake area, or any place else in the State of Maine. I have a summer home on Sebago Lake. But, that is not what we're talking about today. We're not talking about changing that wording on the referendum. We're talking about getting a decision from the court. Many of the people on the Committee who joined me in voting for Senator Kany's Bill, agreed that they would not vote to change the wording when the time came. All we are trying to do is get a solemn occasion here. We're asking you to vote for it and when and if the court should decide that we can make that decision, that is the time you would make the decision whether you vote to change it or not. We're not asking you to do that today. All we are asking, and I think you would want to know, does the Legislature have the right to

change a referendum? Do you want to wait down the road several years before you find that out? It is one of the few opportunities that we have had to approach the court. Let's get the thing going so we know what we are doing. There are 3 branches of Government. We are one of them. Shouldn't we know what we can do and what we cannot do? You're not voting for any referendum changing the wording. We just want to get a vote so we can have a solemn occasion and go to the court and then you can make your decision of what you want to do. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Thank you, Mr. President. I think the problem with the proposal that lies before the Senate today, is the fact that we are not really in a solemn occasion position. We really aren't faced with the requirement that the Supreme Court needs in deciding whether we can do something, or whether we can't do something.

When you hear people asking to vote for this to ask the court what their opinion is, not that they are in favor of it, you don't find yourself confronted with a solemn occasion. If the people in the Senate are not going to endorse changing the referendum, why would they want to vote for changing the referendum just to ask the court and say this is a solemn occasion as far as we're concerned, even though we're not really in favor of it, but we would just like to find out how the court feels about it? So, I think that is a basic fallacy of the argument that is being proposed today.

The second point is the fact of just let's get on with it. We have a referendum to take place in 1987. It would take at least 3 or 4 weeks, or a month, for the court to rule on whether we could or not, and then come back here and decide on what to do. There is going to be a referendum. I think it has been crystallized by the debate here in the Legislature and by the newspapers throughout the State and also on TV. Let both sides try to delineate their positions and educate the public on the issue that is there and not anymore confusion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President and members of the Senate. I was one of the cosponsors that dealt with the new wording of future referendum questions. We also talked about this one and I made it very clear at the hearing that I was opposed to changing the wording on the present referendum. I do believe that the initiatives brought by the people are done so because the Legislature has not acted in a way that has served the interests of a particular group of people. In this case, 53,000 people petitioned the State to have this brought to referendum. Just because certain members of the Legislature do not like the wording on the question is not reason to change it.

We have had our shot before with these issues and when the people bring a petition and collect the signatures and all the work and money that it costs to go for a petition, I don't think we have the right to interfere with that process. We have had our shot in the past, this is the peoples shot and I don't think we should interfere with that just because we think the question would lead people into answering in a way different than we would like it. So, I do want to point out that in reading the amendment, not withstanding any other laws, this act shall apply to all pending ballot questions that have not been voted on. This amendment does apply to this question.

This does not deal with the solemn occasion. This deals with the present question before the people.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President. I hasten to remind you that I am speaking on this issue as an individual Senator and not as a floor leader.

The attachment of the amendment, as presented by the Senator from Hancock, Senator Perkins, Senate Amendment "A" (S-45) does change the wording of the question on the referendum issue that we have sent out to the people for a vote. It applies to that question. Senator Perkins has explained to you, his motivation in presenting this amendment. I would echo his position. It is a solemn occasion in the State of Maine, when the Legislature's role and the citizen petition process is not clear. Men and women of the Senate, it is not clear. It is not clear in our Constitution, it is not clear in the statutes and I submit that it will not be clear until this Legislature can force, if you will, the Supreme Judicial Court to rule on our role in the initiative process.

The amendment which is tendered this morning, the sole purpose at this time, is to place the Bill in a position that would be most favorable to receiving a ruling from the Maine Supreme Judicial Court. You will remember, I feel sure, that we, in this Body passed a Senate Order declaring a solemn occasion by a majority vote, requesting that the Supreme Court to rule on a similar question, earlier in this very session. You also remember, I have not a moment of doubt, that the Supreme Court chose not to rule. We are not privy to the many reasons for their not addressing the question, and oh, how I wish we could inquire and get a straight answer. But, it was clear from the ruling that the position of the Bill or Bills at that time, was the basis for their non-action. If we place this amendment on this Bill, at this time, we will have placed the Bill in the most receptive position for their attention, to the question of what role does the Legislature play, etc.

The questions are incorporated in Supplement #2, which is on your desk. There is nothing under handed about that. This is a public forum. Nothing is being done without your knowledge, without access to information, volumes of it. Without debate and without our attention collectively. This provides an opportunity, in this session, on this day, to clarify our role as a co-equal branch of the government of this State, dealing with the peoples business.

I think it is an opportunity that we should address positively, should the court rule, clearly and concisely, we will then be faced with this Bill with an engrossment with this amendment attached. There are numbers of opportunities to re-address the question that we have all addressed this afternoon. I think it is an opportunity that is timely, that is solemn, and that we should seize this day. Should this amendment be attached, it is my intention to move to table this Bill, so that it will rest on the table while the order is being presented. I would hope that those motions would receive your positive approval. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you, Mr. President. Men and women of the Senate. As a co sponsor of this legislation that we are considering today, and the amendment that we are considering today, I simply would like to say that I do not consider this amendment to be a friendly one. The reason I say that, is because this amendment muddies the waters and in fact, does not make clear what the assumption

behind this Bill simply is. That is, we are recognized as sponsors of this Bill, that perhaps there is merit to the arguments that we have heard about the wording of referendum questions. So, we thought we should address it in a clear piece of legislation that everybody can understand. We also feel very strongly, that there is a process in which we make decisions. There is a process that is fair and there is a process that is not fair. Right now, the process that we have in place, whether you like it or not, that is the process that we, as a legislature, are responsible for and have laid out to the public. It is precisely that process that those who have worked on this referendum used. They did not violate the rules. They didn't change the rules, they didn't monkey with the rules. They followed the rules, that we as a State government had established, to a tee. They did what they had to do under the rules, and we have a question as a result of that process.

We may have questions about the wording of that question. We may have questions about the process. That is why we have this legislation. To look at the process and say that when this process happens again, we are going to make changes. But the basic assumption and it was very important to the sponsors of this Bill, was it not be done retroactively. Because, we felt and feel very strongly, that to do so is simply unfair. It is changing the rules in the middle of the game.

The people who used their constitutional right, did so faithfully and squarely, and they used the rules before them. We shouldn't slap them across the face when they were successful in using that process. I believe even raising the question about retroactive, and I think this amendment comes down to two words, the final two words in the amendment - retro active statute, is the key here. I don't question the sincerity of some members of this chamber, who are forcing this proposal. I have a sneaky suspicion that there are some other forces at work here. I have a suspicion that perhaps, the wording of this question is going to make a difference, or at least some polls are indicating that how this is worded may make a difference on elections day.

Whether it is yes or no, could make a difference in the campaign ahead. I know for a fact, that the campaign for this particular issue, is well under way. I know for a fact, that literature has been produced, calling on voters to vote "no." Literature presented by, made by and printed by the proponents of this referendum. I know there are bumper stickers on cars, in this very parking lot, that say to vote no in November.

Money has been spent, a campaign is under way. We are saying that we are going to perhaps change, now. I think that we sometimes have to step back from our positions on a particular issue. We have to look at the process and we have to look at fairness. In this case, if we all do that, that fairness dictates. That we reject this amendment. The campaign is under way and it probably is going to make a difference. I don't have any problem with the two sides coming in here and battling to get the best position in the field. Of course, if you want to defeat this, you want the best position, and if you support it, you want the best position. I don't have any problem with that. The problem I have is how it is being done. While it may put a positive light or a negative light on one side of the issue, what I am saying, is let us step back and go on the side of fairness. Let the process that was in place, that was laid before the people who started this

referendum, the same process they used in putting this issue before the voters, to keep that process in tact.

I ask you to join those of us who are opposing today's amendment, in the name of fairness. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you, Mr. President. I know we have somewhat protracted debate on this and other issues here this morning. I will try, therefore, to keep my remarks fairly brief. I would ask this distinguished body in consideration of the pending question, to try to divorce itself from the underlying, political implications, of the significance of a vote of either yes or no on this particular question. It seems to me, from my perspective, which I would like to lend to this debate this afternoon. What really is the issue, and I think the good Senator from Cumberland, Senator Andrews alluded to this in his remarks, is that this institution not offend the process which was laid forth by our founding fathers, when the Maine Constitution was adopted in 1820. If we step back for a moment, let's analyze what we're being asked to do. We're being asked, as a Legislature, to determine whether we have authority to amend or alter citizen initiated referendum questions which are being put forth to the voters of this State. It seems to me, that there is a logical reason why our founding fathers allowed the initiative process to go forth. Clearly, if, in the views of a significant number of Mainers, the Maine Legislature did not address an important issue of public policy. There was set forth an alternative mechanism, whereby the voters of this State, could secure, be placed on the ballot, a referendum. It would seem somewhat ironic if, when drafting that particular mechanism, the founding fathers would also have intended to allow the Legislature, that same Legislature that had failed to address that issue of public policy, would bring forth such a referendum.

It seems ironic that the founding fathers would then let the Legislature to somehow intervene and perhaps for the best of intentions, alter or modify the citizen initiated referendum question. It seems to me that opinion is not that of myself, but of far many others more intelligent than I, who have given this careful consideration.

As you well know, the Attorney General has already considered this issue and has determined that this body is without authority to amend such a citizen initiated referendum questions. I think that is fairly clear. I don't think anything will be accomplished by deferring this matter to our law courts for consideration. I might add, there's another matter that I, myself have not decided how I would vote if I was going to be asked the question on the closure of Maine Yankee. There are significant legal issues involved, not the least of which are due process issues and mandated compensation for the owners of Maine Yankee, if in fact the people of Maine would approve such a referendum process. It is not at all clear that we have authority as a State to govern or chart policy in this area. But, those issues, I submit, are more appropriate for public debate when this issue goes forth to the voters. For us to interfere at this point would be, in my view, misconceived and inappropriate policy, and in fact, would go in direct contradiction to the intent of our founding fathers when this alternative mechanism of a citizen initiated referendum process was included in our Constitution.

It is for these reasons and these reasons alone, that I would urge this body to decline the invitation of the good Senator from Hancock, Senator Perkins, and vote no on this issue. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you, Mr. President and members of the Senate. We all have to keep things in perspective. Where is this amendment really coming from? Where has this amendment originated? All we have to look to is history and what has happened over the past year. A utility company, Central Maine Power and Maine Yankee have been trying to change this initiated question from day one. Why? I am not so sure, but I would like to share my comments that I mentioned in the Democratic caucus the other day. If I were the president of CMP, and one of the ranking officials at Maine Yankee, I wouldn't be doing this, because in my estimation, if this amendment succeeds and if this citizen initiated question is changed, you will certainly see a rising of Maine citizens from Kittery to Fort Kent, to close down that plant. The reason is the issue of democracy is at stake today. That is the issue. I have to take exception with my good friend, the Senator from Sagadahoc, Senator Cahill, when she says there is nothing really improper or different about changing the citizen initiated question. I take strong exception to that and so should every member of this Legislature.

There is a very important intricacy part in our democracy and that citizen initiated procedure is the bastion of our democracy, upon which we are formed. I would read to you from the Maine Constitution just two sections. Section 1, under Article 1 of the Declaration of Rights: [All men are born equally free and independent and have certain natural, inherent and unalienable rights. All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.] Section 4: [Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty; no laws shall be passed regulating or restraining the freedom of the press.] Those are very strong words, ladies and gentlemen of the Senate.

I harken back, and I probably shouldn't say this, but I am a member of the JC's and I remember in that creed and I know the JC's have gone through some tough times and they should change on that issue. [We are a government of laws rather than of men.] A government of laws. When we do things to change that premise, we change what we are as a democracy. Believe me, today, the issue before this body is the democratic process. Fellow Republicans of the Senate, fellow Democrats of the Senate. Let's not stand democracy on its' head today. Let's uphold the country that has been such a blessing to all of us. And the system that has been such a blessing. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you, Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question to the good Senator from Kennebec, Senator Matthews. I would like to know why the wording of the question before was not "do you favor the closing of Maine Yankee?" Is it because it has failed already?

THE PRESIDENT: The Senator from Sagadahoc, Senator Cahill has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and members of the Senate. Our State Constitution requires the Secretary of State to develop the question. The Maine Legislature has set up, by statute the process which includes going to the Secretary of State and having the question determined by the Secretary of State attached to the petitions. That is what we have referred to earlier.

The actual process that occurred was that the petition organizers did present a question to the Secretary of State as a suggestion. That was the one in which enactment would have been an answer of yes, by the way, and the Secretary of State also asked the opponents for suggestions for questions, the utilities, and took into consideration their suggestions and I understand added that word nuclear power in reference to the power plants, into a question that the Secretary of State or actually the Deputy Secretary of State, designed himself. So, that was the process that occurred. We do have quite a bit of statutory law to implement the Constitution.

I would like to ask for a Roll Call and then subsequently just like to speak to two items that have appeared in the debate. Both the good Senators from Hancock, Senator Perkins and the good Senator from Cumberland, Senator Clark have referred and discussed a separate order, which of course would be a separate motion. That particular order would ask the law courts some questions again. I would like to point out that earlier in the year when we asked the law court those questions, that it took almost 2 months to receive an answer. Of course, the answer was not an advisory opinion, but was simply a communication saying that the court did not feel that there was a solemn occasion. I would suggest that the order which has earlier been discussed, that has nothing to do with the pending motion, in my opinion, that it would not be appropriate to go to the law court immediately if this amendment is adopted, because the House would not have backed it. You did have unanimous report from the Legal Affairs Committee, although one person, the good Senator from Cumberland, Senator Dillenback, had earlier indicated that he did favor changing the question.

I would suggest that if you all are really serious about changing the nuclear plant shut down question to go before the voters in November, and you do want an advisory opinion from the law court, the appropriate time to seek such an advisory opinion, would be after final enactment in both houses of the Legislature. I am just offering that as a suggestion.

I strongly do oppose the amendment. The Attorney General has twice given an opinion, that it cannot be done at mid point in the process, that the question cannot be changed by the Legislature. He used words similar to that of the good Senator from Androscoggin, Senator Gauvreau, when the Attorney General said [moreover it is doubtful that the authors of the initiative provision would repose ultimate control of the ballot question in the hands of the Legislature, when the entire initiative process is designed as a means of over coming the Legislature that refuses to enact the measure itself.] I do ask for a Roll Call.

On motion by Senator KANY of Cumberland supported by a Division of at least one-fifth of the members present and voting a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, ladies and gentlemen of the Senate. After the many discussions on this amendment, I would hasten to add that one of the main reasons for my concern in this, and I think the Senator from Cumberland, Senator Andrews has alluded to it, also, if the wording and the confusion which it creates. It is an established fact that if the wording remains the same, there is the chance for a 20% error. This Legislature has not been unknown or has not hesitated before where there was a chance for a 20% error, to address that and try to correct it. Further, and I think you can relate to this, having seen a question you did not understand, your tendency was to ignore it on the ballot, or if you did understand it, to do the best you could in your understanding, and hope your vote was the way you really intended for it to be.

If, in this process, we cause this 20% error, our we not indeed disfranchising those who do not understand? It would appear to me that they too have a God given right to vote the way they please. Are we giving them this right? The question will be posed. We're not sending it to Washington. We are not sending it to Libya or to Lebanon. It is going to the Maine Supreme Judicial Court. I don't think that is Un-American. In fact, I submit to you it is as American as you can get. Where else would be want to pose a question of the Constitution? Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Thank you, Mr. President. I would like to go on Record because I want to make absolutely certain that the good Senator from Hancock, Senator Perkins understands what I meant when I spoke earlier. The confusion that you alluded to and the confusion that I talked about, is not going to helped even if you assume that the voters are confused by changing the ballot question. In fact, by changing the question, the question that has already gone through this chamber, is going to add to the confusion. It could take the 20% that we heard about, and I don't know where that 20% came from, but if it is 20%, perhaps it would increase that 20% and create an even greater confusion. The fundamental question with this amendment is whether we could, we are going to ask the court if we could change this wording. Ladies and gentlemen, I don't need to know from the Supreme Court or anybody else if we can do it. It doesn't matter to me if we can do it or not. We shouldn't do it. We shouldn't do it and that is the point. If you believe that we shouldn't do it, there is no reason in the world to ask the Supreme Court if we can do it, because we shouldn't. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator BRANNIGAN: Thank you, Mr. President. Maybe this is too simple, but if we shouldn't do it and I agree that we shouldn't and if the Legal Affairs Committee has done their job, and I believe that they have on this Bill, then all future referendums will be clear and we won't be tempted to meddle in any future referendum questions, so we don't need to know from the law court whether we can meddle anymore. So, I don't think that we need to ask that, whether we can meddle. Maybe that is too simple, but that's the way it seems to me. I am going to vote against it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator PERKINS of Hancock to ADOPT Senate Amendment "A" (S-45).

A vote of Yes will be in favor of ADOPTION.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BLACK, BRAWN, CAHILL,
CLARK, COLLINS, DILLENBACK,
EMERSON, GOULD, LUDWIG, MAYBURY,
PERKINS, SEWALL, USHER, WEBSTER,
WHITMORE, THE PRESIDENT - CHARLES
P. PRAY

NAYS: Senators ANDREWS, BALDACCI, BERUBE,
BRANNIGAN, BUSTIN, DOW, DUTREMBLE,
ERWIN, ESTES, GAUVREAU, GILL, KANY,
KERRY, MATTHEWS, PEARSON, RANDALL,
THERIAULT, TUTTLE, TWITCHELL

ABSENT: Senators None
16 Senators having voted in the affirmative and
19 Senators having voted in the negative, with No
Senators being absent, the motion of Senator PERKINS
of Hancock to ADOPT Senate Amendment "A" (S-45),
FAILED.

Which was PASSED TO BE ENGROSSED, as Amended.
Sent down for concurrence.

Out of order and under suspension of the Rules,
the Senate considered the following:

COMMUNICATIONS

The Following Communication:

COMMITTEE ON EDUCATION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

April 29, 1987

Senator Charles P. Pray, President of the Senate
Representative John Martin, Speaker of the House
Dear President Pray and Speaker Martin:

The Joint Standing Committee on Education has
completed the review of the new administrator and
teacher certification law required by P.L. 1983,
chapter 845 and P.L. 1987, chapter 84. We are
pleased to present the recommendations of the
majority of the Committee on the certification law.
A copy is attached along with a copy of legislation
implementing those recommendations.

These recommendations and accompanying
legislation are the result of a thorough examination
of the new certification law and the pilot projects
established to test that law. We hope our
recommendations are useful in guiding the Legislature
in its consideration of this issue.

Sincerely,
S/Sen. Stephen C. Estes
Chair
S/Rep. Stephen M. Bost
Chair

Which was READ and with Accompanying Papers
ORDERED PLACED ON FILE.

Off Record Remarks

On motion by Senator DUTREMBLE of York, ADJOURNED
until Friday, May 1, 1987, at 12:00 in the afternoon.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
59th Legislative Day
Friday, May 1, 1987

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

Prayer by Reverend Richard H. Hall, St. Philip's
Episcopal Church, Wiscasset.

The Journal of Thursday, April 30, 1987, was read
and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on State and Local
Government reporting "Leave to Withdraw" on Bill "An
Act to Establish the Maine Legislative Commission on
Intergovernmental Relations" (S.P. 250) (L.D. 699)

Was placed in the Legislative Files without
further action pursuant to Joint Rule 15 in
concurrence.

Ought to Pass in New Draft

Report of the Committee on Appropriations and
Financial Affairs on Bill "An Act Making Unified
Appropriations and Allocations for the Expenditures
of State Government, General Fund, and Changing
Certain Provisions of the Law Necessary to the Proper
Operations of State Government for the Fiscal Years
Ending June 30, 1988, and June 30, 1989" (Emergency)
(S.P. 206) (L.D. 577) reporting "Ought to Pass" in
New Draft (Emergency) (S.P. 449) (L.D. 1375)

Came from the Senate, with the report read and
accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft read
once.

Under suspension of the rules, the New Draft was
read a second time, passed to be engrossed in
concurrence.

Non-Concurrent Matter

RESOLVE, to Compensate Thomas P. Peters, II,
Attorney-at-law, for Professional Services Rendered
in the Adoption of Benjamin B., Heather B. and Lucas
B. (S.P. 287) (L.D. 814) which was Finally Passed in
the House on April 29, 1987.

Came from the Senate, Passed to be Engrossed as
amended by Senate Amendment "A" (S-47) in
non-concurrence.

The House voted to adhere.

COMMUNICATIONS

The following Communication:

MAINE INDIAN
TRIBAL-STATE COMMISSION
PO BOX 87
HALLOWELL, MAINE 04347

April 29, 1987

The Honorable John L. Martin
Speaker of the House
Maine House of Representatives
The Honorable Charles P. Pray
President of the Senate
Maine Senate

Dear Mr. Speaker and Mr. President:

In accordance with Title 30 MRSA 6205(5) and
Joint Rule 36-A of the Maine Legislature, the Maine
Indian Tribal-State Commission met on April 28, 1987
for the purpose of making a recommendation on L.D.
488. With a quorum present, a motion was made and