

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Sixteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

**Senate**  
May 19, 1993 to July 14, 1993

**FIRST CONFIRMATION SESSION**

October 14, 1993

Senate at Ease

Senate called to order by the President.

# ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned (6/8/93) matter:

SENATE REPORT - from the Committee on **LEGAL AFFAIRS** on Bill "An Act to Implement the Recommendations of the Special Commission on Electoral Practices"

S.P. 478 L.D. 1477

Report - Ought to Pass as Amended by Committee Amendment "A" (S-276)

Tabled - June 7, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Report

(In Senate, June 3, 1993, Report **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I wonder if anyone might care to just briefly explain what this Bill does. Do we have time to Table this until later in Today's Session?

**THE PRESIDENT:** The Chair would answer in the affirmative. The pending question before the Senate is **ACCEPTANCE** of the Ought to Pass as Amended Report of the Committee.

Which Report was **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-276) **READ**.

On motion by Senator **HANLEY** of Oxford, Senate Amendment "A" (S-289) to Committee Amendment "A" (S-276) **READ**.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This takes the process of recounts and puts it into the courts hand and it also gives them the discretion of being the one who will determine who gets seated. It comes up to that point because for the seating arrangement they have to get the Constitutional amendment through which would give them that authority. I would move the Indefinite Postponement of Senate Amendment "A" to Committee Amendment "A". Thank you.

Senator **CAREY** of Kennebec moved to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-289) to Committee Amendment "A" (S-276).

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope that you would not follow the motion of the good Senator from Kennebec, Senator Carey, and Indefinitely Postpone this measure and, in fact, vote against it so we can adopt this Senate Amendment. What this Senate Amendment would do to the Bill is basically take the process of handling the recounts and put it right in the Judicial Department, right in their hands. The reason why you should support this amendment is the neutrality of the Judiciary is a fundamental consideration in restoring confidence to this process. Men and women of the Senate, I would implore you that confidence must be restored. Based on the actions that have happened this past winter and fall regarding recounts it is vitally important to restore the people's faith in our process. The only way we can restore that faith is to put the recount process in the hands of the Judiciary. The recount should be placed under the independent, nonpartisan, legal arm of the Judiciary. Removing recounts from under the jurisdiction of the Secretary of States Office will remove partisan overtones and suspicions from the process. Judicial oversight will restore public confidence and integrity to the process. Plus, 29 other states currently have judicial oversight of recounts. The Chief Justice is not opposed to the Bill and it will absorb any administrative costs incurred. Men and women of the Senate, this amendment is a win win proposition for everyone involved. For those who are involved in recounts it is a win win because it is automatically put into the hands of the Judiciary. The people of the State of Maine win because now they have some confidence and faith restored in the electoral process, and specifically the recount process. Thirdly, men and women of this chamber, as well as the other chamber, will win by having the political overtones removed by having it placed squarely in the nonpartisan hands of our Judicial branch. I cannot see the down side of this and if anyone can see the down side of this I would like them to enlighten me. Thank you.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would disagree with the good Senator from Oxford in reference to where recounts should be handled. Specifically on the issue of separation of powers and that this legislature should continue to be the body which controls the outcome in elections. I can't resist but answer some of his other arguments regarding the credibility of the Judiciary. There are many on this very floor of the State House who have spent not more than the last month or so criticizing the Judiciary, first for its sentencing in the ballot scandal and, most recently, for a hiring of a clerk by the highest court in the land. To say that their own neutrality has not been tainted in this most recent of years around here would be wrong. I do not think that it is a good idea that we shift this burden to that branch of government, I think it ought to stay with us. I would point out for the body that in the amendment itself, as offered by the good Senator, it shows that he has some questions about the neutrality of certain judges to begin with since he has a procedure in here whereby judges could be challenged for their neutrality and refused, on page 2 of his amendment. I don't think shifting this problem, if there is a problem, to another branch of government

is going to resolve the issue at all. I would hope that there are plenty of changes that we are going to get into in this Bill, the large majority of which we are going to agree on, I am certain of. This is not one I would urge this body to adopt. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm always encouraged to see my good friend from Cumberland stand up and correct me. I guess I would just like to draw a distinction for the good Senator. The sentencing question was not a partisan issue. The hiring of Harvey Prager is not a partisan issue. Recounts, when you have a Republican against a Democrat, are partisan issues. I would direct the Senate's attention to an article that appeared in the Morning Sentinel, January 18, 1993. The headline, "Diamond admits Ballot errors - says he, and staff, didn't do enough to prevent tampering". In the first paragraph it says, "Secretary of State, William Diamond, conceded that he and our staff 'let our guard down' by failing to do more to protect ballots from alleged tampering during legislative recounts." Men and women of the Senate, I think that speaks for itself. By taking this out of the Secretary of State's hands and placing it in the hands of the Judiciary we now have restored confidence in this process. When people go into the ballot booth, when they cast their ballot, whether it be for the good Senator from Cumberland, Senator Conley, or for myself, they expect that ballot to be sacred, for that ballot not to be tampered with, for that ballot to be counted. If we cannot have faith in this prime underpinning of our democratic process then all of the other aspects of this Bill go for naught. This is a vital cog in this entire process. With the omission of this cog we have not done the work of the people as far as to restore confidence and make them confident that when they go into the ballot booth that yes, my vote is going to be counted, it's not going to be messed with and there is no question as far as if there is a problem it will be handled in the most non-partisan and neutral of fashions. Thank you.

On motion by Senator **HANLEY** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As I listened to the good Senator from Oxford I think he was starting to drift back into his debate about an elected Secretary of State. I would pose a question to the good Senator, would he feel more comfortable about leaving this with the Secretary of State if, in fact, the Secretary of State was elected by the people? Thank you.

**THE PRESIDENT:** The Senator from Cumberland, Senator Conley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to the question. I would have appreciated that question having been asked me before all of this earlier, maybe I would have had a different answer for the good Senator. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. When the good Senator from Oxford, Senator Hanley, said that this was a win win situation, it certainly is not a win win situation for the Secretary of States Office, or his staff. They are made really to be the scapegoats in this whole matter and they are victims as well as those people who had or had not had their ballots tampered with. It is an overreaction. Originally the commission was set up to handle the tampering of the ballots and it was solely to do that, except that the charge gave it a wide latitude and therefore, it got into Boards of voter registration, it got into voting techniques and voting machines, and, as the good Senator from York, Senator Carpenter, well knows, his town was scheduled to be under duress, so to speak, because those particular voting machines were to be thrown out. They were forced out because of the work done by this commission, there are other problems with this particular Bill. I have been accused by many, some little short guy over in the House has been the leader of the whole bunch, I have been accused, and I am not going to deal with debate over in the other body Mr. President, it has been said that the amendment that I am sitting on, amendment "D" is one which will really gut the Bill because it only does three things. It has the State Police pick up ballots that may possibly be inspected for a recount, it insures that there be secure boxes that those ballots go in and that amendment, which is part of this Bill, also would see to it that there is a stiffer penalty for people who tamper with ballots. I personally hope that I do not have to offer that amendment, that is a last resort. One thing that we have to salvage out of this Bill, if nothing else, so I am going to be sitting on this amendment as the rest of these amendments go through. For the gentleman to say we can't be trusted with our elected or appointed officials, somebody else tampered with those ballots, not an elected official, not an appointed official. We can handle our own messes when they happen to us. I would hope that you would vote to Indefinitely Postpone this amendment. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **CAREY** of Kennebec to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-289) to Committee Amendment "A" (S-276).

A vote of Yes will be in favor of **INDEFINITE POSTPONEMENT**.

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 BERUBE, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

**NAYS:** Senators AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER

**ABSENT:** Senator BALDACCI

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator CAREY of Kennebec, to **INDEFINITELY POSTPONE** Senate Amendment "A" (S-289) to Committee Amendment "A" (S-276), **PREVAILED**.

On motion by Senator CAHILL of Sagadahoc, Senate Amendment "B" (S-295) to Committee Amendment "A" (S-276) **READ**.

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

Senator CAHILL: Thank you Mr. President, Ladies and Gentlemen of the Senate. First of all I would like to commend and tell the Joint Standing Committee on Legal Affairs how much I appreciate the work that they did for this unanimous Committee Report. The good Senator from Penobscot, Senator Pearson, and I were reminiscing a little while ago, talking about the old days and the old election law Committees, back when we first served in the legislature. He and I both had the distinction, along with then Representative Greg Nadeau, from Lewiston, now the staff person for the good President, to serve on that Committee. Back in those days election law debate was probably the most partisan and most controversial debate we ever had. When Senator Pearson became the Chairman of that Committee I was never really sure if that was the penalty to the Senator from Penobscot, Senator Pearson. We made a pact that we would have no more than three divided reports that year, and we kept that. I know how difficult it was to debate all those election law issues and come up with only three divided reports. So I appreciate very much Legal Affairs coming into this year, particularly, with the controversy surrounding our election laws and coming up with a Bill that I think could be considered landmark legislation. I am sincere and I appreciate and thank them for all there work.

I'd like to talk about my amendment a little bit. The issue of residency has always been an issue that we have discussed off and on when talking about election laws and, while I don't agree with it, I guess constitutionally there cannot be a residency requirement in the State of Maine. I accept that even though I don't agree with it. I think there has to be some protection for the person who votes, for the municipality where that person votes, and some intent of that person to reside in a particular municipality. It was an Attorney General's opinion back in 1980, it was number 38, that said you can set out specific criteria relating to if a person resides or intends to reside in a particular municipality, must meet. The first thing you can say is if that person owns a motor vehicle, the person has to register that motor vehicle in the State of Maine and has to pay the appropriate excise tax in the municipality where that person is voting. It goes on to say that if a person has a drivers license, and they intend to register to vote in the State of Maine, they also have to have a Maine drivers license. The third provision of the legislation says that if a person has income or personal property they are subject to taxation in the State of Maine and they must file an appropriate tax return for the

State of Maine. That is what my amendment does, I think it is a good amendment and I would move its adoption. Thank you.

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

Senator CAREY: Thank you Mr. President, Ladies and Gentlemen of the Senate. The section that the gentlelady is trying to amend happens to contain the non-traditional habitat. The Commission was very concerned that the homeless would be given a shot at being able to register to vote. For many of them, they do not have an automobile, many of them don't have a license and many of them wouldn't know what it is to pay an income or personal property tax. However, I would ask the gentlelady, for the Record, to be sure she is not aiming at the homeless and before she gets a chance to answer I would point out that under A, where if a person owns a motor vehicle, the person has registered that motor vehicle in the State and paid the appropriate excise tax to the municipality in which the resident is asserted. That person may have come from South Portland or Cape Elizabeth or what have you, and moved into the Portland area. Their registration is really good for a year, so therefore that creates a minor problem as well. 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 appreciate the question from the good Senator from Kennebec, Senator Carey. It was not my intention to in any way affect the legislation regarding the homeless. Whether I agree with that or not, I understand that it was a position that the Committee worked out and the intent of my amendment was in no way meant to affect that. I think his second question, about the A provision of the amendment, I think what that would mean is that if a person lived in South Portland in June, and moved to Portland in October and intended to vote in Portland in November, that the next time if that person was still living in Portland, the next time that that person registered their car they would be obligated to register in the town where they voted. Thank you.

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

Senator CAREY: Thank you Mr. President, Ladies and Gentlemen of the Senate. Given that explanation I would hope that the amendment could be adopted. It really refines some of the provisions we have as far as residency is concerned. Thank you.

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

Senator LAWRENCE: Thank you Mr. President, Ladies and Gentlemen of the Senate. I have some concerns about this amendment and the attempts to introduce some elements of an intention test, but as I see a lot of these tests, motor vehicle registration, driver license, pays property taxes, pays income taxes, has evidence of domicile, I see those as a lot of property tests. Testing the income of the person, the financial ability of that person and in a way it is a little bit like a reverse poll tax. In other words if you say this is a person of property, this is a person who owns something, then that is evidence that they have the right to vote in that community and I am very troubled by that. We

don't regulate our election laws on the basis of income and the owning of assets. I can think of many circumstances where people who own property, who don't actually live in a community year round, but want to vote in that community, to protect their real property in that community, and other people who don't own property in that community would not be able to vote under these tests of elements of your intention to live there. I can think of circumstances of people who go to work in Washington D.C., service people who wish to maintain a State as their residence because if they are living in Guam or Washington D.C. they don't want to lose the right to vote for a U.S. Senator, they don't want to lose the right to vote for a member of Congress. Under these tests they would lose their ability to vote in the State of Maine, yet someone who owned real estate in the State of Maine, simply because they own that real estate, would be able to vote in the State of Maine. I hope you would oppose this amendment. Thank you.

On motion by Senator **ESTY** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **CAHILL** of Sagadahoc to **ADOPT** Senate Amendment "B" (S-295) to Committee Amendment "A" (S-276).

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 **AMERO**, **BEGLEY**, **BERUBE**, **BUTLAND**, **CAHILL**, **CAREY**, **CARPENTER**, **FOSTER**, **GOULD**, **HALL**, **HANLEY**, **HARRIMAN**, **KIEFFER**, **LUDWIG**, **MARDEN**, **SUMMERS**, **WEBSTER**

**NAYS:** Senators **BRANNIGAN**, **BUSTIN**, **CIANCHETTE**, **CLEVELAND**, **CONLEY**, **ESTY**, **HANDY**, **LAWRENCE**, **LUTHER**, **MCCORMICK**, **O'DEA**, **PARADIS**, **PEARSON**, **PINGREE**, **TITCOMB**, **VOSE**, **THE PRESIDENT - DENNIS L. DUTREMBLE**

**ABSENT:** Senator **BALDACCI**

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **CAHILL** of Sagadahoc, to **ADOPT** Senate Amendment "B" (S-295) to Committee Amendment "A" (S-276), **FAILED**.

On motion by Senator **HANDY** of Androscoggin, Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276) **READ**.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I urge your adoption of this Senate amendment. During the course of our lengthy, and I might say cordial, deliberations on

the Legal Affairs Committee on this reform measure we did agree to comply, or to be in concert with, the special Commission's recommendations to increase the severity of the crimes. Increasing the penalties for wrongfully removing a name from a voting list from a class E crime to a class C crime and increasing the penalties for tampering with a ballot, voting list or voting machine in an attempt to change the results of an election from a class D crime all the way up to a class B crime. Those hold some pretty stiff penalties. However, in addition to that the Committee did take a considerable departure from the Commission's recommendations and added the loss of ones right to vote. I believe that the penalties that we have, for the violation of any law, should provide a deterrent in the first place, and then if someone commits a crime, to persuade them from committing the crime again. I can't imagine for the life of me anyone, who commits any crime, is going to think about their loss of their right to vote and that somehow is going to be a deterrent. So this amendment that I offer this evening is to be in keeping with the special Commission's report and not take that quantum leap of departure from it. I urge you support of this amendment. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is one of those very big compromises that we made in Committee in putting a couple of things in. What we were aiming for was a unanimous vote out of the Committee and we said that whatever is in there or has to go in there would then have to be done with floor amendments, so that we were at least unanimous when we brought this out to the floor. This is one of the amendments that I personally would support. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator **Hall**.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I've tried to sit here and remain very quiet because I have already spoken too many hours on this Bill. You may see me vote for some amendments and against some amendments, I would prefer the Bill went without any amendments. This particular one we did discuss at great length and basically all it is is whether you believe that a person who has been convicted of ballot tampering and is in prison, should he or should he not have the right to vote. It is as simple as that and I will not urge you either one way or the other, vote your conscience. Thank you.

Senator **WEBSTER** of Franklin requested a Division.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **HANDY** of Androscoggin to **ADOPT** Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276).

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

19 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **HANDY** of Androscoggin, to **ADOPT** Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276), **PREVAILED**.

On motion by Senator **CARPENTER** of York, Senate Amendment "C" (S-296) to Committee Amendment "A" (S-276) **READ**.

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

Senator **CARPENTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This amendment requires that a candidate submit evidence of tampering or irregularity to obtain a recount in an election in which the margin of victory is more than 75 votes in an election for the House of Representative or a municipal election, or 300 votes in an election for the Senate or County or State wide election. This amendment also changes the Committee amendment to reinstate the law provisions authorizing inspection of ballots and voting lists. I move for its adoption. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is another that I can easily support because of what it does. It reinstitutes the inspection of ballots and voting lists, something that the Commission did not want to do. What it can do, just by simple inspection of ballots, can save us a lot of money in not having to have a recount. Thank you.

On motion by Senator **CARPENTER** of York, Senate Amendment "C" (S-296) to Committee Amendment "A" (S-276) **ADOPTED**.

On motion by Senator **PEARSON** of Penobscot, Senate Amendment "F" (S-325) to Committee Amendment "A" (S-276) **READ**.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In the scheme of things this is not the biggest deal in the world but it leaves the appointment of the Board of Registration the way it is now. That is the Republicans would pick their person, the Democrats would pick their person. The way it is at the present time. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If there is one thing that I have heard a lot of comment on in the Bill was the loss of control by the parties themselves of the Registrars. This is another one of the amendments that I could support. 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'd just like to ask a question to anyone on the Committee. What was the reasoning behind eliminating the position of Registrar, and if you could help me, because I have

forgotten over the years, what qualifies the Town to have a Registrar? I know some of the towns I represent do have one and some do not. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I will try to answer the gentlelady's questions. You are exactly right, some towns have a Registrar, some do not. What was intended here is to bring into play the unenrolled voter, giving that unenrolled voter a part in the election process as an election official. We had three very strong city clerks on that Commission and that was their area of expertise. Some may consider it a play for more power or some may just feel that in was, in effect, a chance to get a better line of communication between the clerks and the registrars. The registrar in many towns is, in fact, the Town Clerk, as I think many of you will know. Of all the comments that I have heard, besides that I have a very stupid amendment hanging out there, without people really knowing when, if ever, it was going to be presented, was the fact that they did not want to lose the party control of at least one member of their Board of registrars. There is a safeguard in here that a political party cannot control the entire Board of subregistrars, those people who would be working in the poll area who would be taking your registration and enrolling you at the polls, so you would not have to go back to city hall and waste time and get discouraged about having to go back to city hall to register to vote. One party cannot have more than one of the other party, and we like to use an example of 30 subregistrars, if the unenrolled voter plays a part in this there would be, in effect, 10 Democrats, 10 Republicans, 10 of the unenrolled. If no unenrolled chose to participate, out of the 30 registrars, it would have to be 15 to 15 Democrats to Republicans for the simple reason that if it became 16 and 14 we have violated what would be the law in there being no more than 1 over and above the minority on that particular Board. This is, I think, a good amendment, in leaving things as they are. Thank you.

On motion by Senator **PEARSON** of Penobscot, Senate Amendment "F" (S-325) to Committee Amendment "A" (S-276) **ADOPTED**.

On motion by Senator **PARADIS** of Aroostook, Senate Amendment "G" (S-326) to Committee Amendment "A" (S-276) **READ**.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Paradis.

Senator **PARADIS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is simply to make sure that we are not getting to be abrogating the rights of citizens, whether they are college students or individuals who are working out of state temporarily, to lose their right to vote by striking them from the roles. I move for its adoption. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would ask you to oppose this amendment, although I am not familiar with what the Committee did I do know that this is one of the significant segments of this Bill, requiring that people couldn't forever and ever and

ever live in another part of the State and vote somewhere other than where they resided. Perhaps someone in the Committee might want to speak on this but it seems to me this is one of those parts of the Bill that were agreed to and is reasonable important and I don't think we ought to be discarding it without some discussion. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This particular situation was, we tried to clear up the fact that the law now states that anyone who has the intent to return, being very vague and finding names of the voter registration list of people who have been gone for 20 years, but they said they intend to come back some time. This still, by taking the change that we made in the Bill, it would still allow for students going to school elsewhere to still remain residents of their home community. It would allow service people to remain residents of their community. It would allow anyone who was working out of state but yet held a permanent residence in the municipality, whether it be through owning property, or their apartment or whatever. It is mainly to try and clear up these voter registration lists from people who have been gone for 30 or 40 years or whatever, and they may come back, but it may be a long time or it may not be coming back in the same condition they left. Basically this amendment looks to me like it puts the same wording back in, only turned around a little bit, but the meaning looks the same as what we tried to get rid of. I would recommend that you oppose this amendment. Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I do want to point out to the body that there is a distinct set out procedure in the election laws that provide how names may be removed. If I'm not mistaken, I recall in our Committee discussions that there is some Federal case law that prohibits names being taken off here and there. There is a set process that has to be gone through and it has to be applied uniformly, so there can not be a discriminating process that takes place whereby names are taken off simply at the discretion of the city clerk or maybe a board of voter registration. There is a set out process currently in statute that I think preserves the integrity of the voter list in as much as it provides for that process whereby a voter is notified, by mail, and then if that letter comes back, that voter has 10 days to respond. I think we have a good process set out in the current law and I support the good Senator's from Aroostook's amendment, Senator Paradis. Thank you.

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

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In reviewing this amendment I just wanted to make it clear to the body that the Committee has recommended a change and I, for one, have never heard any complaints about residency problems and the way residency has been used by the Clerks in my particular district. I happen to be in a city which is very transient, people move around a lot, and if we were to pass the law as it was presented, without Senator Paradis' amendment, it would make it much more difficult for

some of my people to get to vote. For that reason I would be opposed to the law as it is proposed in the Bill and I would support the amendment. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The gentlelady from Aroostook is obviously well intentioned, however, we have many municipalities with a voting list that contains more names than there are people in the community. We have voting lists that contain names of people who left back in the second World War to work in Hartford, Connecticut for Pratt and Whitney who obviously intend to return on their retirement. Some of those are now retiring, but in large part many of the people are claiming residency because they may be able to register their car there and they are living in Massachusetts, and it is a lot cheaper for the insurance for them, they certainly can get a resident hunting and fishing license. For that reason there are people who are maintaining their residency. The Bill cleans up the law so that hopefully the voting lists can be cleaned up. In fact the Registrar simply has to send out a letter, something that should not be required, if the person who lived in Bangor moved to Ellsworth and the clerk in Ellsworth, or the Registrar in Ellsworth, happens to send a postcard back to Bangor to say that, yes this person has now registered to vote in Ellsworth so you can cross him off your list. The way the municipal budgets have been going in the last few years, unfortunately there is no money to send these cards out, that is why the lists are getting bigger and bigger all of the time. I would hope, while I am not going to suggest one way or the other with her particular motion, I would hope that you consider those things that we have said in trying to save whatever is in the Bill. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I wish to pose a question through the Chair. If there is any member who is familiar with the proposal and the Bill, would you please tell me, or tell the body, if a person who is temporarily stationed, because of their employment, in another part of the State, would that person be eligible to vote in the community that they have been temporarily transferred to? For instance, if a hypothetical voter were to leave York County and be stationed in Limestone for several months, would they be able to vote as a resident of the town of Limestone even though they had not transferred their automobile registration etc. Thank you.

**THE PRESIDENT:** The Senator from Penobscot, Senator O'Dea has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In answer to the question. Anyone may become a resident in any municipality within our state. Very simply by residing there. You can only be a resident of one municipality at one time. In that particular situation, if the worker wanted to become a resident of Limestone, he surely could, and therefore be allowed to vote in Limestone, but would no longer be considered a resident of the municipality where they came from. Now, as long as their vehicle was currently registered, the question of the excise tax



would not actually come up. At such time as the vehicle needed to be re-registered, then where ever they were a resident of at that time is where they should be paying their excise tax. I hope that answers the question. Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. My good colleague on the Legal Affairs Committee, Senator Hall, is correct. I think you have to take it one step further. I guess it would be an unintended consequence of the Committee amendment that would open up the possibility of someone's name being removed from the list if they lived in another town and then went to another part of New England, or another part of the State of Maine to work. Under the Committee amendment a clerk could remove that person from the voter list, so there is that possibility. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to repose the question of the Senator from Penobscot, Senator O'Dea. What happens if that person does not own a motor vehicle? What happens if that person is a student and resides for a certain number of months in another community in the State, does not have a drivers license, does that mean that they cannot change their voter registration to the community they are now living in? Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If the person is a student at the University, he can satisfy the registrars request by simply presenting a rent receipt, that he in fact did rent a particular apartment or what have you within that community. If he couldn't provide adequate information to prove residency he or she would still be allowed to vote. However, that ballot would be a challenged ballot and would remain a challenged ballot even if it were an absentee ballot coming in, until the residency could be proven. In effect someone who has not been able to prove residency can register in a community, can be allowed to vote, we are not going to disenfranchise anyone, but according to the Bill they would be voting a challenged ballot. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Based on what the good Senator from Kennebec, Senator Carey, has just said, it is conceivable then that there could be an election in a ward where there are any number of persons, in a State institution or a University, or any number of persons who are temporarily stationed at a facility, Loring Air Force Base for one, or the Air Station down in Brunswick, where there could be any number of persons there who have documents or credentials linking them to another locale who have voted in that local ward, something that would be permissible and it would then be quite possible to have many hundreds of challenged ballots in a race like this. If that is the case I certainly would urge you to vote against what is currently in the

Bill, or vote for the amendment brought forward by the Senator from Aroostook, Senator Paradis. This Bill represents a substantial departure from the current practice. Maine has received a great deal of recognition, nationally, for the way its voting laws are structured and who may register where. The Secretary of States Office has received a great deal of recognition as well in this area and they have done a good deal of work in terms of making it possible for people to register without having some of the onerous requirements that we see in other states. I'm afraid that this will be a giant step backwards and would urge you to vote for the amendment. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I think I got the answer to my question and I will urge you to vote for this amendment, simply because in my district we have a lot of individuals who are service people who are stationed on the submarines who come in to vote and we have a special procedure, under state law, currently set up where they take a certain oath there at the polls and are able to vote in that community and I don't believe this Bill, as it is worded, helps them. I believe it would prevent them from voting and effectively disenfranchise them. I hope you will support the amendment. 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'd like to address a question to the good Senator from York, Senator Lawrence. I would like to know, those people would be eligible to vote absentee, so therefore they would not be disenfranchised it would seem. Thank you.

**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 York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I assume the Senator is referring to voting by absentee in another State. Often those States have such restrictive laws that those sailors are often at sea at the time they would need to get the absentee ballot or are not able, because of the laws of that State, to get a ballot, yet they want to vote, not so much for the local officials but for the Presidential and Senatorial races. So they are, in effect, disenfranchised. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. To the good Senator from York, I guess I need some assistance here to work it through. You are stating that a person in military service, there is a possibility that they can be disenfranchised and not have the ability to participate in an election because of the absentee ballot restrictions in their home state. Is that the point you are trying to make? I guess I am not aware of any State having the ability to disenfranchise and not allow an absentee process for

their military personnel. In fact, I could be mistaken, but I believe there are certain Federal requirements regarding that. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The distinction here is being legally disenfranchised and practically disenfranchised. While they are not legally disenfranchised, the circumstances created by the nature of their military service practically disenfranchises them unless they have a State, like Maine, where they can conveniently and easily come in and exercise their right to vote. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm glad we clarified that, we would not be disenfranchising anybody, I think that is a very easy way to try and get people motivated to support an amendment that otherwise would not be necessary. I would just relate an experience of mine, a good friend of mine who was in the military, who supported me and voted for me over the past three elections, told me that in the military they go to great lengths to allow each individual know that an election is coming up and how to go about the absentee process. They give them quite advance notice and I don't think there really is a question of practically disenfranchising someone. If they really do sincerely want to vote there is enough advance notice, at least in the Army, they make plenty of advance notice to those people. I don't think they are legally disenfranchised or practically disenfranchised. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Somerset, Senator Cianchette.

Senator **CIANCHETTE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to pose a question to Senator Hanley, of Oxford, if I may. I thought I heard the Senator say that this absentee ballot person voted for him and I would like to know, if I heard him correctly, how does a Senator know that that absentee ballot was voted for him? Thank you.

**THE PRESIDENT:** The Senator from Somerset has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It isn't intriguing at all, in his letter to me after forming the ballot, he wanted to assure me that he was voting for a Republican and to do all the best to keep his property taxes down. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I don't know if it is the same fellow that I knew, because I was told by a person who lives in South Portland that he had voted for me as well. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The reason I started this discussion was because it was my understanding of the reason for changing this law would be to deal with the situation where, for example, several years ago a legislative candidate in Franklin County, ran for election and won. Every member of his family voted but none of them lived in Farmington. They don't live in the County, they live all over the country, they happen to be registered in Farmington, Maine and so they voted in Farmington, Maine, even though they didn't live there. I thought the reason for changing this law was to make sure that people who voted in a municipality actually lived in that municipality. If that isn't the case then I have wasted a lot of time in the Senate. It seems to me that is what we should try to do, to make sure not to disenfranchise college students or people who should have the right to vote, but to make sure that the person who lives in South Portland doesn't vote for daddy or mommy because they happen to live in some other part of the state. That is not the kind of law we should have. If you don't live in the municipality you shouldn't vote there. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Kieffer.

Senator **KIEFFER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to pose a question through the Chair to anyone who would care to answer. It seems to me that if we are going to pass any legislation it would also be nice to have some possible way to enforce that legislation. In 1963 I built a new house and the neighbor across the street had lived in his home for several years, and I was quite surprised to find out, when I was going door to door, that he was registered in another town in my district. His cars were registered in the city that I live in and I think we have a pretty capable city clerk there who is very diligent, and yet this went on for 30 years and still exists today. All the legislation in the world that we put on the books regarding residency or anything else, I would like to ask the question of who ever would like to answer, how do we intend to enforce this? Thank you.

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

Senator **HANDY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To answer the question posed. The enforcement mechanism is no different than that which currently exists in that if there is cause to file a complaint it may be done with the District Attorney or it may be done with the Attorney General's Office. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator O'Dea.

Senator **O'DEA:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would suggest respectfully that this is not an issue of disenfranchising but rather an issue of enfranchising. We have one of the highest rates of voter participation in the country because our ballot process is so open. We have really made a name for ourselves as a State because we have made it easy for people to vote. I think back to a time that I have heard a good many stories about, 25 years or so ago, when, because of some ambiguities in State laws, some election clerks in the town of Orono made a rather arbitrary determination that students enrolled at the University would be ineligible to vote. It wasn't until the United States Justice Department got

involved, and Federal Marshalls were on the Orono campus, that the situation got resolved correctly. The problem was corrected statutorily after that. We have been well served with that policy to this day and I would hope that we would not move backwards and go back to that very unfortunate condition that we found ourselves in before when local officials were making some arbitrary determinations about who would and who would not be able to vote at any given time. Thank you.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As I sit here and listen to this debate I hear time and time again how matters of convenience for people, how we must make it easier for them to vote. I hear about how Maine has had the highest election turn out and how we have made it easier for people to vote before the election, and sometimes after the election, and I think what it all boils down to, whether you are a member of the military or whatever, the right to vote bears a certain responsibility and it takes some concentration and some effort to know that an election is before you and that you have a responsibility to make yourself available prior to that election to make your choice as to whether you are going to be voting absentee or not. I see no good reason for this type of amendment and I hope this body rejects it. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion of Senator **PARADIS** of Aroostook to **ADOPT** Senate Amendment "G" (S-326) to Committee Amendment "A" (S-276).

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

16 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator **PARADIS** of Aroostook, to **ADOPT** Senate Amendment "G" (S-326) to Committee Amendment "A" (S-276), **FAILED**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ADOPTION** of Committee Amendment "A" (S-276) As Amended by Senate Amendments "E" (S-323), "C" (S-296) and "F" (S-325) thereto.

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Off Record Remarks

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

#### COMMITTEE REPORTS

#### House

#### Committee of Conference

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes"

H.P. 1060 L.D. 1428

Have had the same under consideration and ask leave to report that the House **RECEDE** from **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-430)** and **HOUSE AMENDMENT "A" (H-427)**; **INDEFINITELY POSTPONE** Committee Amendment "A" (H-430); **INDEFINITELY POSTPONE** House Amendment "A" (H-427); **READ** and **ADOPT** Conference Committee Amendment "A" (H-649) and **PASS THE BILL TO BE ENGROSSED AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (H-649)** in **NON-CONCURRENCE**.

That the Senate **RECEDE** and **CONCUR** with the House.

Signed on the part of the House:

Representative **ROWE** of Portland  
Representative **CAMERON** of Rumford

Signed on the part of the Senate:

Senator **MARDEN** of Kennebec  
Senator **CONLEY** of Cumberland  
Senator **BALDACC** of Penobscot

Comes from the House with the Conference Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (H-649)** in **NON-CONCURRENCE**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

**THE PRESIDENT:** The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Could someone explain to us exactly what this does please? Thank you.

**THE PRESIDENT:** The Senator from Franklin, Senator Webster, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I want the body to know that I would not have gone along with this Report without the strong support of the Senator from Kennebec, Senator Marden, who reviewed this carefully prior to me signing on board, and also the good Senator from Penobscot, Senator Baldacci. The amendment that came out of the Committee is a much watered down version of the original Bill. What this would do is prohibit vending machines from dispensing both candy and cigarettes. If you are going to have cigarettes in a vending machine that could be the only item in a cigarette machine. It would also call