

TESTIMONY OF AVERY DAY, CHIEF LEGAL COUNSEL

GOVERNOR'S OFFICE

IN OPPOSITION TO LD 1574, AN ACT TO PROTECT MAINE VOTERS FROM  
INTIMIDATING VIDEOTAPING AT THE POLLS

VETERANS AND LEGAL AFFAIRS COMMITTEE

February 8, 2016

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Senator Cyrway, Representative Luchini, and members of the Veterans and Legal Affairs Committee, I am Avery Day, Chief Legal Counsel in the Governor's Office. I wanted to provide you with my testimony registering the Governor's opposition to LD 1574, An Act to Protect Maine Voters from Intimidating Videotaping at the Polls.

As you have heard, this bill would limit the ability to videotape within the polling place in reaction to videotaping that occurred during the fall of 2015. While the ballot is sacred and Maine law protects the secrecy of the ballot through a number of measures, including the voting booth, the polling place remains a public space. In fact, given the practice of collecting signatures for ballot questions at the polling place, this space has been transformed into the proverbial "public square." Unfortunately, this bill seeks to provide artificial protections above and beyond what citizens can expect in public by attempting to prohibit videotaping in this public space.

If this legislation were designed to protect the sanctity and secrecy of the ballot, perhaps it could justify this attempt to curtail Mainers' liberties within this public place. The intent, however, is to shield those circulating petitions and those signing petitions from being recorded — a protection these same people would not receive if they are transacting their business in the literal "public square." Given the intent, this bill should fail.

There are a number of legitimate reasons why someone might elect to record others within the polling place and this desire for privacy while signing a petition – which is a public record – does not outweigh these legitimate interests. For example, media outlets often report from the polling place on Election Day. Further, voting is a process strictly governed by statute. Being able to record in the polling place provides those interested in protecting this process with the ability to document any irregularities. Perhaps most importantly, being able to record those signing petitions provides a way to ensure that the law is being followed – a concern that has been raised within the past few weeks regarding current citizens’ initiatives.

For these reasons, I ask that the Committee vote “Ought Not To Pass” on LD 1574.