

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth*

*Legislature*

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL  
AUGUSTA, MAINE

## SENATE

Wednesday, April 18, 1973

Senate called to order by the President.

Prayer by the Rev. Raymond Richardson of Farmingdale.

Reading of the Journal of yesterday.

### Papers from the House

#### Joint Resolution

#### STATE OF MAINE

In the Year of Our Lord One  
Thousand Nine Hundred and  
Seventy-Three

#### IN MEMORIAM

WHEREAS, on April 12, 1973 this State lost a trusted friend and valued public servant in the death of the Honorable L. Smith Dunnack of Augusta; and

WHEREAS, the Members and staff of the Legislature feel a special sorrow because, among other important callings in life, he served as Revisor of Statutes with loyalty, devotion and conscientious effort from 1931 to 1944; and

WHEREAS, it was he who introduced the present system of striking out and inserting new words in bold type to show the exact changes made in the public laws; and

WHEREAS, those who work with the law have come to know and appreciate the innovative designs of his cumulative index and cross reference tables listing all changes made to date; and

WHEREAS, in recognizing our sorrow and sense of loss on his passing we include the sentiments of all who knew and admired him throughout the Legislature and its several departments; now, therefore, be it

RESOLVED: By the One Hundred and Sixth Legislature of the State of Maine that its Members join countless state officers and employees, all members of the judiciary and the people of the State of Maine in this expression of heartfelt sympathy for Mrs. Dunnack and her family; and be it further

RESOLVED: That a suitable copy of this resolution be sent to Mrs. Dunnack as a token of our esteem. (H. P. 1442)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

### House Papers

Bills, Resolve, and Resolution today received from the House requiring Reference to Committees were acted upon in concurrence.

### Orders

On motion by Mr. Tanous of Penobscot,

WHEREAS, approximately 275 petitions containing approximately 45,000 signatures have been filed pursuant to Article IV, Section 18 of the Constitution of Maine purportedly initiating a bill to establish a Maine Public Power Authority; and

WHEREAS, it has been alleged that State Government employees at taxpayers' expense assisted in the circulation of the petitions; and

WHEREAS, the Chairman of the Judiciary Committee has reported to the President of the Senate and Speaker of the House that a cursory review of some of the petitions reveals that there are a vast number of signatures with similar handwriting contained therein; and

WHEREAS, there are other alleged irregularities in the circulation, preparation and verification of said petitions; and

WHEREAS, the Legislature of Maine has a duty to determine if said petitions have been validly initiated; and

WHEREAS, the Legislature has a further continuing duty to insure that the initiative provisions of the Constitution have not been abused; and

WHEREAS, the Judiciary Committee, because of its inadequate staffing and because of its many other duties is incapable of filling its duty of investigating thoroughly the petitions; now, therefore, be it

ORDERED, the House concurring, that the Joint Standing Committee of the 106th Legislature on Judiciary is authorized to hire such counsel, investigators and clerical assistance as said committee deems necessary to investigate the validity and all circumstances surrounding the circulation of said

petitions. In the conduct of this investigation the committee is hereby authorized to delegate to said staff the right to conduct deposition and issue subpoenas and do whatever else is reasonably necessary to make a complete and full report to the committee and to the Legislature in regard to said petitions; and be it further

ORDERED, that the Attorney General's office and all of the state departments, including but not limited to the Department of Public Safety, is hereby ordered to cooperate with the committee and perform whatever services are requested by the committee and its staff; and be it further

ORDERED, that there is hereby appropriated to said committee from the Legislative Account the sum of \$5,000 to fulfill the purposes of this Order. (S. P. 590)

Which was Read.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: I am sure that most of you are aware of the particular order that I just presented for adoption, and I would like to fill you in on a little bit of the background that the press hasn't filled you in on perhaps relative to this matter.

This petition which has been filed with the Secretary of State was sent to the Judiciary Committee by the legislature for the Judiciary Committee to determine the validity of these petitions and the signatures contained thereon. Now, it is incumbent upon our particular committee to look over these signatures, conduct an investigation into the signatures, examine the various petitions, and to report back to the legislature our findings.

About a month ago we had an executive session in the evening. The entire Judiciary Committee was present, or a vast majority was present, and we immediately undertook the task of going through some of these petitions — this was before our public hearing, I may add — and several of the committee members, in reviewing some of the petitions, ran into signatures which appeared similar in nature, similar handwriting. Now, we are not handwriting experts, but to

many of the members of the committee we felt there were similarities in handwriting. In my opinion, in some instances there were five signatures with similar handwriting, with no attempt made whatsoever to change the signature. On these five signatures I referred to in one instance, all of these five people resided at the same address. The address, of course, had to be written on the petition and, again, the handwriting in this area was similar in nature. So this is one area. Other members of the committee found similar what appeared to be irregularities in the petitions that were filed.

Now, following our initial and very cursory examination of these petitions — there were some 275 petitions filed, and we perhaps examined as a committee 25 of these, or 30 at the most, that evening — following our examination of some of these petitions, we had a public hearing. At the public hearing there were allegations or charges made to the Judiciary Committee that they felt that state funds, state monies, or monies derived from the state, had been used to accumulate some of these signatures. This was an allegation made to the Judiciary Committee.

There were serious questions raised before the Judiciary Committee relative to the acknowledgement on these petitions. Now apparently on February 17, 1973, which I understand was the last day for these petitions to be submitted to the Secretary of State's office, there were at least 25 to 30 of these petitions with the same individual taking the acknowledgement of the circulating petitioner all the way from Fort Kent to Kittery. Now, it is possible that this was done, but to an ordinary prudent man it causes questions in the mind of a person as to whether this could conceivably have been done. I could conceivably be done, but then again, isn't this sufficient cause for the committee to have some apprehension relative to the validity, at least, of the form of these petitions?

Now, I have no question in my mind that of the 35,000 or 34,000 signatures that were finally approved by the town clerks'

offices and the Secretary of State's office that there would be sufficient number of signatures, regardless of the similarities in handwriting. But then again, the form of some of these petitions causes great concern to the committee members.

Following these occurrences, the Judiciary Committee had an executive session, and we were pretty well agreed that with the staff that we have got, with the money available to the committee to conduct this study or examination of these petitions, that it was just inconceivable for our committee to do this within the next two or three months. It would require much more money than what was given to us by the legislature and much more time than we have available. So the committee decided at this point to send a report to the legislature, with reservations, validating these petitions, telling you people of the quandary that the Judiciary Committee has been placed in. We don't have the time, we don't have the money, but based on what has been reported to us by the Secretary of State's office, we give these petitions a questionable validation, in a sense, with reservations, or a conditional approval of the petition, in a sense.

I inquired among some of you as to how you would react to such a report before you and, perhaps rightfully so, indirectly I was told that probably I would be laughed off the floor of the Senate for coming out with such a report. Now, I ask you gentlemen, especially committee chairman or members of the committee, what then would you do in my position? Would you come out with such a report, or would you come out with a report giving these signatures to this petition an unconditional guarantee that they are valid? Or would you present an order asking the legislature to give you more funds so you can get more staff to conduct perhaps an examination of these petitions and to perform the task that is incumbent upon the committee?

I feel it is not an unreasonable request. I think it is only right that, as Chairman of the Judiciary Committee, I approach the Maine

Legislature to request some staff, some funds to hire a staff, to conduct an examination and carry out the duties that have been delegated to us by you.

Now, some of you feel that there are political implications involved, and I know that the Democrats are going to perhaps oppose my motion because they feel that we are trying to cloud the issue. Fine, if this is your feeling, but I have got a job to do as Chairman of the Judiciary Committee. I think this is the only way I can do my job, and I am asking that you lay aside your party politics and join me in trying to do the job that has been charged to me, as Chairman of the Judiciary Committee, and the entire Judiciary Committee as well. I ask you to support me on my order, and I would hope that we could pass this order through without undue delay so we can make a report back to the legislature as it is so incumbent upon us to do. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I would like to say, in reference to some of the last remarks of the good Senator from Penobscot, Senator Tanous, about laying aside party differences, yes, I would like to ask this Senate to lay aside party differences and support the will of 50,000 people who want this to go referendum.

Now, I attended that public hearing and, as far as I am concerned, there was no case whatsoever made to invalidate any appreciable number of signatures. There was only one witness who appeared, a distinguished lawyer from Waterville, Mr. Marden, representing the C.M.P. He made some statements which were mere conclusions. No evidence whatsoever was presented. Besides that, the signatures have already been O.K.'d by the town clerks, they have been O.K.'d by the Secretary of State, they have been O.K.'d by the circulators; they have been verified by at least three levels.

What I am concerned about is the chilling effect on future initiatives that this action might have.

How do you think the sending around of some detectives to ask questions of people, say, an elderly citizen, will affect signers of future petitions? I think this threat of the use of subpoenas is abominable, frankly. They cannot, like President Nixon's lawyers, his associates, his campaign staff, say "No, I don't have to go; I am privileged, so I don't have to go." I think this is a classic case of intimidation of the many, some 50,000, signers of these petitions by the privileged few.

Now, this order calls for spending \$5,000 of the taxpayers' money. If we have money to burn in Maine, I am unaware of it, and spending \$5,000 this way is as good as burning it, because the only legitimate objective of an investigation would be to disqualify the signatures of enough electors to stop the referendum. But according to the scheme of the Republican Leadership, this issue is going to go to referendum anyway, so disqualification or no disqualification, as I understand the Republican Leadership, there will be a referendum. That is if we can really count on that commitment and they can produce. And a \$5,000 investigation would have no effect whatsoever, so the only thing we would be left with is a \$5,000 white elephant. When we have so many legitimate unmet needs in this state among the people of this state, I do not believe we should spend two cents, let alone \$5,000, on an investigation to satisfy Central Maine Power Company's curiosity.

The purpose of this investigation, obviously, is not to determine whether or not this issue will go to the people, because the Republican Leadership says it will go to the people. It is, in my judgment, to impugn the integrity of the people who signed these petitions. It is to gather ammunition for a campaign to discredit public power. It is to discourage use of the referendum in the future. I object to spending \$5,000 of the people's money to possibly secure some advantage for the power companies in their fight against public power. I do not believe this legislature should subsidize the

power companies' efforts to block public power. This is exactly and exclusively what this order proposes to do.

Finally, I think we ought to raise some practical questions, if we are going to do some subpoenaing, we are going to get some investigators, and we are going to have a big investigation, as to just how this \$5,000 will be spent. Who is going to conduct this investigation? Private detectives with their reputations, or are we going to exploit the state police to do this? Will those subpoenaed be informed of their rights? Will they be given the right to counsel? Most of these people will be indigent, so are we going to appoint counsel for them? Who is going to appoint counsel — the Republican Leadership? And what are we really going to do with \$5,000? The order says that we are going to investigate all the circumstances surrounding these petitions. I think that is absolutely ridiculous. We couldn't come close to investigating all the circumstances surrounding these petitions with \$5,000. We have already appropriated \$800; I don't know what we have done with it. Does the \$5,000 include witness fees? If so, how much per day are we going to give to each witness?

I am also very interested in knowing when these hearings are going to be held. As I understand it, we are in session five days a week, so are we going to have them at night, or during the weekends? Is the Judiciary Committee to be both prosecutor and judge? Will the Central Maine Power Company be allowed to intervene? Why not? They have about everything else around here.

A legislative body, as far as I am concerned, is perfectly ill-equipped to handle a judicial matter. If they think there is criminal conduct, then they should take their complaints to the Attorney General, take them to the state police, and get a proper investigation. If they think it is a charade, which I think it is, I think they ought to admit it now and let this go to the people. As far as I am concerned, they don't have enough

evidence to take to the Attorney General. And as far as I am concerned, they don't have enough evidence to spend two cents of the money of the people of the State of Maine.

I move the indefinite postponement of this order and ask for a roll call.

The PRESIDENT: The Senator from Cumberland, Senator Brennan, moves that Senate Paper 590 be indefinitely postponed, and a roll call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Kelley.

Mr. KELLEY: Mr. President and Members of the Senate: I rise today to express the outrage felt by Maine citizens over this order. My good friend from Penobscot, Senator Tanous, and those for whom he speaks, state that they want the nearly 50,000 signatures investigated. Yet they say "We are not against the people voting because we assure you, the people of Maine, that we will amend Senator Kelley's power bill with a referendum rider. In other words," they say, "we want to check out the petitions, and if they aren't valid we promise you, the citizens of Maine, that you will still have the opportunity to vote for public power." I don't share this confidence.

The only way this issue will definitely go to the people is through the petition vote; the Maine Constitution guarantees it. But first the 50,000 signatures must be validated, and that is just what this order is designed to prevent.

Some distinguished members of this body have stated in the press that I have gathered these petitions to run for higher office. They flatter me. I would like to believe that this order is not politically motivated, that Senator Tanous and those for whom he speaks have only the public's interest at heart by this order. My fellow Senators, the apparent purpose of investigating these petitions is to prevent the people of Maine from voting on the issue of public power.

What is Senator Tanous and those for whom he speaks afraid of? Certainly they realize that the municipal clerks have very carefully scrutinized the signatures.

They realize that the Secretary of State, with the assistance of the Attorney General's office, has carefully reviewed these petitions. They also realize that, at best, only a few hundred signatures out of nearly 50,000 could be technically incorrect due to inadvertence and the complexity of the petition process. They also realize that the Secretary of State has said that the petitions validly contain over 2,300 signatures more than the minimum required of 32,500. They also realize that the petitions to remove the big box received, at best, only a cursory view. And finally, they realize that only after Central Maine Power suggested by hearsay reports that there were irregularities did they respond and start questioning.

Do any of you remember that members of this legislature were prevented from even looking at the big box petitions? Yet this year, under the guise of right to know, Central Maine Power was permitted into this State House building to Xerox for two weeks these petitions. So why the fuss? Very simply, there are some who are afraid that the good citizens of this state will pass the public power bill.

Some people have suggested that some Senators are mortgaged to the private power companies. I hope their suspicions are incorrect. But this order indicated that the mortgage may have become—

The PRESIDENT: The Chair would ask the Senator if he would please repeat the last sentence.

Mr. KELLEY: I said some people, Mr. President, have suggested — I am not suggesting — that some Senators are mortgaged to the private power companies.

The PRESIDENT: The Chair would caution the Senator to be very careful in making any veiled insinuations about any Senators in this body, by name or otherwise.

Mr. KELLEY: I will, Mr. President. But this order indicates that the mortgage may become too heavy to bear. What we may be witnessing here today is the foreclosure of the mortgage by the private utilities. I hope not.

I speak here today not mortgaged to any special interests. I am especially not encumbered by the utilities. My responsibility today is to the nearly 50,000 Maine signers of this petition. Their signatures come from every part of the State, from Fort Kent to Kittery and from Calais to Rumford.

What are the citizens trying to tell us with their signatures? Quite simply, they are saying that they do want to finally become heard on the issue of the high cost of and potentially scarcity of electricity in Maine. They feel, quite frankly, that the legislature has thwarted their common goal of public power in the past. And if you don't believe me, conduct your own poll in your Senate districts. The citizens also feel that the P.U.C. has not effectively represented their consumer interests in rate hearings in the past.

In short, Maine citizens want the right to vote for public power through their signatures, and not through any other guise. To deny validity to the signatures is to cheat them, to rob them of the one vehicle that offers them the opportunity to vote for what they regard as being in their best interests. So your vote today means much to the trust which Maine citizens hold for the Maine Senate. Don't suggest to them that some are mortgaged to the utilities, for you have a chance today to prove me wrong, to prove that the mortgage is not too heavy, to prove that this order is nothing but an ill-disguised ploy to prevent the citizens' right to vote on this issue come November.

In closing, the feelings of Maine's citizens are perhaps best expressed in a speech to this legislature two years ago on the big box, and I quote: "You know, you can sit here so long and feel the partisan winds blow across your face, but you know, you sit here and you think about partisan politics, and you look up at the Chair and see the American flag on your left, and you see the flag of the State of Maine on your right, and you see a member of the cloth representing the people of the State of Maine before us, and you know, you

suddenly realize that there is something greater than the barriers of a political party in our state, and that is the ultimate right perhaps of the people. And when you are talking about an initiated referendum, as we have before us today, and as we did have on another issue some time ago, that is what is at stake here, the rights of the people, and this is what we should be concerned with. We should be concerned with whether we should use dilatory tactics to abridge the rights of the people that have been granted to them under the Constitution of the State of Maine, and this is foremost in my mind. This is why I don't feel that partisan politics ought to play a part when you are talking about the rights of the people as granted to them by the Constitution of the State of Maine. This particular right, in my opinion, should override the barriers of either political party. Now, what we have been asked to do in voting on this particular bill", and I continue my quote, "today is not changing any of our political advantages as a party, so to speak. All we are asked to do is to approve a report of a committee, as we have done in other instances. We have been asked to send a question to the people to determine whether the will of the people will accept a particular change. Now, it matters not whether it be the income tax repeal question, it matters not whether it be a removal of the big box at the top of the ballot for ballot reform, so to speak, the issue is unimportant as to the content of the particular referendum. What is most important and what is primary in our minds is the rights of the people, the rights of the people as granted to them by the founding fathers of our Constitution, and this is the important thing." End of quote.

This speech was given by Senator Tanous, who today would have you appropriate taxpayers' money in an effort to thwart the will of the people and to discredit the efforts of the municipal clerks, the Attorney General and the Secretary of State, and the Committee of Citizens for Cheaper Electrical Rates.



I support the motion to indefinitely postpone.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: The good Senator from Aroostook, Senator Kelley, speaks of a sense of outrage over the introduction of this order. Mr. President, I would like to speak of a sense of outrage over the kind of remarks that have been made this morning in opposition to this order.

The remarks that have been made so far would have the people of the State of Maine believe that the thrust of this order and that the purpose of this order is to deny to them, to the 50,000 signatures on these petitions, the opportunity to vote on the issue of public power. Mr. President, nothing could be further from the truth and, in the words out of the mouth of the good Minority Leader, the Senator from Cumberland, Senator Brennan, "this is not the case." The Republican Leadership, the Majority Party of this Senate, has indicated that a referendum will go to the people on the issue of public power, that they do have, and have indicated, a desire to have the opportunity to vote on this issue, and that it is not the purpose of this order or the Majority Party in this Senate to thwart that desire or to deny them that opportunity. This has been admitted and has been stated very clearly by the Minority Leader of this Senate. It is the case, and yet we have heard innuendos, insinuations, that the Majority Party wishes to thwart that opportunity and deny that opportunity to the people.

Mr. President, the Committee on Judiciary had a very heavy responsibility before it when we were referred these initiative petitions. We had the duty to verify the authenticity of not only the petitions before us that day, but we had the duty to uphold the integrity of the entire petition process that is granted to the people of the State of Maine, that the people have reserved to themselves through their Constitution.

There were two questions before the Committee on Judiciary: one verifying the petitions on the public power issue itself, and the second, the question of whether or not the petition process itself was followed in this particular case.

It became evident to those of us on the committee that 50,000 people, or the vast majority of the signers, did indeed want the opportunity to vote on the issue of public power; that became clear. And for that reason, the Committee on Judiciary tended to wish to report to this body that the petitions should be verified. Yet it also became clear, in going over some of the petitions, that perhaps — and I say perhaps, Mr. President — that perhaps some of the processes that are laid down by law and are written into the Constitution of this state were not followed as they should have been. And to place an unconditional verification on the petitions under those circumstances would have been to abrogate our responsibilities to uphold the integrity of the petition process itself, and thus, the dilemma of the Committee on Judiciary in wishing to report out a conditional acceptance of the petitions, knowing full well that there were enough names there to send this issue to the people, and yet knowing as well that there were enough questions raised to wonder about the process that was used to obtain those names.

So, Mr. President, we have this order to attempt to arrive at an answer to the second question, and that is whether or not the process itself, the petition process, has been subverted in some way by the methods that were used to obtain these names. Yet we also have the very clear indication and the responsibility that there will be sent to the people the bill on public power and that the people will have the opportunity to vote on that issue, as they have indicated they wish.

The good Senator from Cumberland indicated that these petitions were verified on three levels. Well, I would like to clarify that just a bit. The clerks in the various towns verify only to the fact that the name that appears on the

petition is in fact on the voting rolls. They have no way of verifying, and do not intend to verify, whether or not the name that appears on the petition is in fact an authentic signature. Neither do they have any verification as to the circulating signature, as to whether or not that was a valid verification of the petition.

The good Senator from Cumberland has raised a number of emotional issues. He speaks of this order being the tool of the Central Maine Power Company, knowing full well that he is attempting to raise the emotional level and raise the Central Maine Power as a red herring in this particular issue. He speaks of elderly individuals being questioned by investigators of this committee pursuant to this order. Well, I don't think it is the intent of this committee to send out investigators all over the State of Maine to question elderly individuals who may or may not have happened to have signed these particular petitions, but there are circulators of these petitions, Mr. President, and verifiers of these petitions who are very well aware of the process that they should have been following under the Constitution of this state, and that is what we wish to find out, whether or not the process that those who were circulating these petitions should have followed was in fact followed.

So there are two issues that are before us: one, the desire of the people, the recognized desire, to vote on the issue of public power. That desire will be met and the issue of public power will be put out to referendum. But we have an equally important issue, the second issue in this case, and that is whether or not the integrity of the petition process itself is to be upheld, and it is that issue to which this Order addresses itself. I hope that we oppose the motion of the good Senator from Cumberland to indefinitely postpone this order.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: It did me good to sit here and listen to the calm tones of the Senator from

Kennebec, Senator Speers, because it gave me a good chance to calm down.

I have been here since the 101st Legislature, and this is the highlight of my existence because my integrity was impugned today like it never has been before, and I look upon the remarks of the Senator from Aroostook, Senator Kelley, as a personal attack on the fellow who represents the district where Central Maine Power is located. I resent, Mr. President, any implication at all that any member of this Senate is under mortgage to anybody, whether it is organized labor, whether it is private power or public power. I think the remarks were completely inappropriate, and I wanted to express my personal resentment. Talk about operation overkill — operation overkill, boy I have witnessed it here today.

The remarks of the Minority Floor Leader were equally offensive to me, personally offensive. "Central Maine Power owns everything else around here", he said. I guess this is my fourth term in the Senate, and I have been pretty proud. I think this is the best Senate I have ever served in. I think individually we have got the best Senators I have ever seen in this 106th Legislature, but the remarks this morning were not of the high caliber in keeping with the high quality of the people here, and I want to express my disappointment at the nature of the remarks that I have witnessed this morning.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: I would ask the members of the Senate to look at this order just to see what kind of power we are going to delegate to these investigators that the good Senator from Kennebec, Senator Katz, might be concerned with.

It says here, "In the conduct of this investigation the committee is hereby authorized to delegate to said staff the right to conduct deposition and issue subpoenas and do whatever else is reasonably necessary. . ." We are going to get

some private detectives, I suppose, and give them subpoena power. I find that absolutely obnoxious.

In reference to the remarks of the good Senator from Kennebec, Senator Speers, he spoke about me making reference to elderly citizens, the people I have talked to say a lot of elderly citizens did sign this petition, a lot of elderly citizens are concerned with their light bills. And there isn't any question; we are only playing games here. We don't think that Central Maine Power Company and the power companies have been terribly influential in the Maine Legislature over the years; there is no question about that. I say I think we are just ignoring the obvious. Central Maine Power and all the power companies have been very, very powerful. I have been around this legislature four or five terms, and it is my recollection that the power companies session after session have had no problem whatsoever killing this bill, and as a result of that a statutory initiative was started, and 50,000 people signed that so they would have a chance to vote on it. That is what this is all about, so why play political games.

If I understand some of the speakers here, they say well, we think there is an ample number of signatures. Why don't we let it go through the process? Let it have the hearing and go on that process. Why should the Republican Party attempt to steal the initiative? I mean, it is a rank political ploy, all emotion set aside. 50,000 people did sign this, they want to vote on it, so why can't we go the tradition of the clean-cut way. Again, I urge you to support the motion to indefinitely postpone this order.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Mr. President and Members of the Senate: I share with the Senator from Kennebec, Senator Katz, the thought that I am awfully glad that quite a little time has elapsed since the statements were made by my good friend from Aroostook County and my friend from Cumberland, Senator Brennan, because I think

that having served two terms as Majority Leader in the other branch, and having heard some pretty rank partisan debate, today we are changing to some sort of low point in characterizing the motives of others.

Without dwelling at undue length on the faults of the opposition, I would like to indicate to you, first of all, that I supported and voted for the bill which would permit initiated constitutional changes. I fully support the right of the people to make this determination. I decided long prior to this rather ugly debate this morning to vote in favor of submitting the public power issue to the people of Maine.

I was asked a week or so ago what would I do if I were in this situation, and I said "If you are going to put out a report granting conditional approval, then don't bother to ask for my support for that kind of program; I think it stinks." I really believe that. I think the initiative process deserves protection; I really believe that.

Now, stealing political issues: that is an issue to be solved in political campaigns. The issue here is whether or not these petitions could be validated by the Judiciary Committee. And in the view of a substantial number of them, and I might add of both sides, there is a problem. I think it is perfectly appropriate to investigate this possible abuse of the petition process. Right to counsel? Certainly. Who says all these people are indigent? I don't know. But if they are, they can certainly secure competent representation, and I hope the committee does take the step to provide counsel for persons who are called to testify in the event that it is necessary for them to plead the Fifth Amendment to the Constitution of the United States in order to avoid incriminating themselves.

As far as the overriding issue, and that is the question of the public's right to vote, that is guaranteed. As far as I am concerned, I think that the presiding officer of this body and the elected majority leadership of this party is entitled to your respect and belief when they indicate that this

is a bill that they are going to support to send this issue to the people. So all you are talking about really, in the last analysis, is concern that some of these signatures were gained under circumstances which are illegal. If that is what your concern is, then it doesn't seem to me that the way to prevent these facts being known is to fight this order, not really. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I would like to perhaps for the record straighten out a few remarks that were made. First of all, to my knowledge, we only had approximately 45,000 signatures presented to the committee, and not 50,000. It makes quite a difference when you are talking 5,000 in numbers.

Senator Kelley did come in at the public hearing with 5,000 more signatures. Of course, we didn't get to look at these because they had not been submitted to the Secretary of State. So I assume he is including 5,000 signatures in his remarks here this morning that were not even submitted and, for the record, that should be mentioned, I feel.

I am sure that in a petition of this type, properly conducted, that someone could at least obtain 100,000 signatures. Really numbers, perhaps, don't matter. I agree that there are a sufficient number of people who have requested a right to vote on this issue in referendum.

Senator Kelley from Aroostook quoted my remarks made two years ago, and I might add that I still mean what I said two years ago. I have not changed, and I am pleased that he got my same remarks from the record in the 106th. I mention that because it is quite interesting. This was the majority report of the committee in that particular instance two years ago that he was quoting my statements made on this floor.

I am sorry that he didn't continue and read the statement of former Senator Harding from Aroostook County. The statement of Senator Harding from Aroostook County back then would have

sounded much like perhaps the statement that I made this morning, that we should examine the signatures on these petitions, the Judiciary Committee is not fulfilling its obligation to the legislature and to the State of Maine by refusing to investigate these petitions and these signatures. I am not surprised because good attorneys — Senator Kelley is an attorney, and he is not going to present the case for the prosecutor, so to speak. But those were the remarks of the Minority Floor Leader two years ago. And maybe I was wrong as Chairman two years ago of the Judiciary Committee. Perhaps I should have listened to Senator Harding, and maybe we should have looked into those petitions a little more than we did at that time. I was convinced that there was such a vast number of signatures that exceeded the required amount, I personally felt at that time that it probably wouldn't have solved anything.

I might also add that there were no such complaints made two years ago relative to the circulation of petitions, relative to similarities of signatures, relative to state monies being used to obtain signatures, and relative to the individual acting as the notary public on the signatures of the circulating petitioners. There was no such evidence presented to the Judiciary Committee two years ago. So I think that the record should show these matters.

I am not concerned with the issue of public power; this is up to the people to decide. I am concerned with the job that has been made incumbent upon the Judiciary Committee.

I would like to pose a question to my good friend, Senator Brennan from Cumberland. When we took our preliminary vote on the report that we were going to submit to this body, I polled each individual one by one relative to the report with reservations and conditions. Each member was polled. Each member was aware of the proposed contents of this report, and 13 members voted to sign a report with reservations, including Senator Brennan. I ask my good friend, Senator Brennan

of Cumberland, why is it this morning that you have no more reservations about the validity of the petitions?

I would also like to mention to my good friend, Senator Brennan of Cumberland, that if this order is successful, and we are granted these funds to conduct an investigation, a study, or an examination of these various petitions, I assure you, Senator Brennan, that the entire Judiciary Committee will have a voice in how we are to conduct our examination of these petitions. It will not be a one-man rule; it will be a rule of the entire committee. We will vote on each and every single issue in the Judiciary Committee as to how this study is going to be conducted, what personnel we are to hire, hearings, if we are going to have any, if necessary. So fear not, this will be done with the full knowledge of the entire committee.

We have made a commitment to the people, the Republican Leadership, the Republican Party, to send the question to the people, regardless of the outcome of our examination. I think it is a perfect opportunity, as Senator Speers from Kennebec has mentioned, to look into our system to see whether we need some amendments to our laws relating to our initiative system. I think we have a living example here, a petition which on the face of it appears to have quite a few irregularities, and I think we have a perfect living example of a study that we could delve into to see if we do need some corrections in our initiative system in the State of Maine.

Finally, I would like to ask the opponents of my order what are you scared of? What do you have to hide? Can't we in a manner required of us look into these petitions without being involved in partisan politics? Can't we conduct a study or an examination of these petitions without hollering bloody murder? I think it is incumbent upon our committee to do this, and I don't see why there should be opposition to doing what a committee has been delegated the responsibility to do. Thank you.

The PRESIDENT: The Chair

recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: Very briefly, there were no signed reports, that I know of, that the good Senator from Penobscot, Senator Tanous, speaks about. The condition he talked about, as I recall the situation in the committee, was that the committee, I think, was in agreement that there were ample signatures. He was going to look at one petition that allegedly had an improper verification, which may have amounted to 200 signatures. As far as I was concerned, I didn't care if they threw out 2,000 signatures, as long as there was enough to go to the people, and that seemed to be the gist of that committee's executive session agreement. That was the heart of it.

In reference to "what are you afraid of?": If you think there is something wrong, if anybody does, why don't they go down to the Attorney General, go to the state police, go to the proper agencies. I challenge you to do that.

Thirdly, in reference to this initiative process, this sudden concern about the statutory initiative process, why are you superimposing it on the public power issue, I ask you? I will support any order to study the statutory initiative process, but I do not think that it is fair to the people of the State of Maine to superimpose that on the public power issue, to cloud that issue and make that issue less likely to pass, but I again — and I think the Democratic Party will support me on this — we will give you all the support you want to study statutory initiatives, all summer if you like. But again, I do not think it is fair to superimpose it on this issue.

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

Mr. CONLEY: Mr. President and Members of the Senate: I can recall two years ago when we had the initiative petitions on the big box and also on the income tax, and I recall the debate that took place at that time. But this morning the remarks of the good

Senator from Aroostook, Senator Kelley, certainly leaves me in some sort of a quandary, primarily because I recall only too vividly that many citizens and many members of this legislature were denied access to the petitions that were submitted two years ago for examination. There was practically an armed guard standing over them. And relative to the statement that Senator Kelley, the good Senator from Aroostook, has made this morning, I would pose a question to the Chairman of Judiciary, the Senator from Penobscot, Senator Tanous, as to whether or not Central Maine Power Company, or their representatives, actually have that much influence within these halls as to the fact that they were able to get these petitions Xeroxed prior to the public hearing held by the Judiciary Committee.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair which the Chairman may answer if he desires.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I would indeed be pleased to answer that question. Two years ago when the petitions for an initiative referendum were submitted to the Judiciary Committee, they were impounded by the Judiciary Committee and held under lock and key by the Secretary of State's office. You will recall that, Senator Conley, I am sure.

This year, the moment that the order was put through this legislature, both bodies, and passed by both bodies — and as I recall, it was on a Thursday afternoon — I immediately dictated a letter to the Secretary of State impounding these very same petitions. I couldn't do this before they were given to the Judiciary Committee; I had no authority to. But once they were, I held an immediate executive session, as Senator Brennan will mention to you, and got the authority to impound these petitions, which I did within the next few hours. The letter was sent to the Secretary of State, and all

photocopying was abandoned at that time.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that Joint Order Senate Paper 590 be indefinitely postponed. A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that Joint Order Senate Paper 590 be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Aldrich, Brennan, Cianchette, Clifford, Conley, Cyr, Danton, Fortier, Kelley, Marcotte.

NAYS: Senators Berry, Cox, Cummings, Graffam, Greeley, Hichens, Huber, Joly, Katz, Minkowsky, Morrell, Olfene, Peabody, Richardson, Roberts, Schulten, Sewall, Shute, Speers, Tanous, Wyman, MacLeod.

ABSENT: Senator Anderson.

A roll call was had. 10 Senators having voted in the affirmative, and 22 Senators having voted in the negative, with one Senator being absent, the motion for Indefinite Postponement did not prevail.

Thereupon the Joint Order received Passage.

Sent down for concurrence.

#### Committee Reports House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Relating to Weight Regulation for Trucks Conveying