

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VII

SECOND REGULAR SESSION

Senate

March 14, 1996 to April 3, 1996

SECOND CONFIRMATION SESSION

August 1, 1996

SECOND SPECIAL SESSION

House of Representatives

September 5, 1996 to September 7, 1996

Senate

September 5, 1996 to September 7, 1996

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HOUSE AND SENATE LEGISLATIVE SENTIMENTS

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
 SECOND SPECIAL SESSION
 2nd Legislative Day
 Friday, September 6, 1996

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

Prayer by Reverend David Clark, First Baptist Church, Nobleboro.

National Anthem by Melissa Mansir, Augusta.

Physician for the day, Peter C. Goth, M.D., Bremen.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Order: (S.P. 777)

WHEREAS, recent tragic events at the Augusta Mental Health Institute and in the City of Waterville warrant an investigation by the Joint Standing Committee on Health and Human Services into the operation of the Augusta Mental Health Institute and the Department of Mental Health, Mental Retardation and Substance Abuse Services; and

WHEREAS, the Joint Standing Committee on Health and Human Services needs the authority to issue subpoenas and compel testimony; now, therefore, be it

ORDERED, the House concurring, that the Legislature delegates to the Joint Standing Committee on Health and Human Services, pursuant to the Maine Revised Statutes, Title 3, chapter 21, subchapter II, the power to administer oaths, issue subpoenas and take depositions in connection with the committee's study of the operation and administration of the Department of Mental Health, Mental Retardation and Substance Abuse Services, the Augusta Mental Health Institute and the agencies contracting to provide services to the department. The review is to be limited to the provisions of mental health services and to otherwise act as an investigating committee.

Came from the Senate read and passed.

On motion of Representative JACQUES of Waterville, tabled pending passage and later today assigned.

Non-Concurrent Matter

An Act to Conform the Maine Tip Credit to the Federal Tip Credit (EMERGENCY) (H.P. 1392) (L.D. 1893) (C. "A" H-923) which was passed to be enacted in the House on September 5, 1996.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-923) and Senate Amendment "A" (S-601) in non-concurrence.

On motion of Representative JACQUES of Waterville, tabled pending further consideration and later today assigned.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 213, the following item:
 Recognizing:

Michael A. Kimball, of York, on the publication of his second novel entitled Undone. This book has received critical acclaim and the highest praise from critics and reviewers. It follows on the heels of Firewater Pond, Kimball's first novel, which established the author as a major force in American fiction. The book, which will be published by Avon Books, will be initially printed in English, German, French and Japanese. We commend him on his excellent

contribution to American literature and for the positive reflection on our great State that such a work engenders; (HLS 1426) by Representative JONES of Bar Harbor. (Cosponsors: Senator LAWRENCE of York, Representative OTT of York)

On objection of Representative JONES of Bar Harbor was removed from the Special Sentiment Calendar.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Jones.

Representative JONES: Mr. Speaker, Men and Women of the House: I am sorry that Mr. Kimball isn't able to be with us today. He is sick with a cold. I just wanted to say a few words about this fellow. He is from away. He moved here about 25 years ago to teach school in the North Whitefield system. He taught music. He taught for a long time and decided that he better get out of teaching because he thought that young kids might be in trouble. He is a little stressed out by the teaching. He started writing. He has received such critical acclaim for both of his books. I was so proud of him that I wanted to submit this special sentiment. As was noted, it is being printed in four languages in its first offering, which is fairly impressive.

I just talked to him on the phone and he joked that maybe I could make a pitch that everyone go buy the book, but maybe you want to wait and read the review of it. I just wanted, for one of my best friends in life, to commend him on this wonderful day. September 12th is the publishing date, the day it will be out. Thank you very much.

Was read and passed and sent up for concurrence.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

Bill "An Act to Implement the Compact for Maine's Forests" (H.P. 1390) (L.D. 1892) (H. "B" H-931, H. "D" H-933 and H. "G" H-937 to C. "A" H-924)

PENDING - Passage to be Engrossed.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House: We are today facing an issue which is probably the most significant issue that will come before this body, in a long time and will in the future. It is interesting, as we all discuss in the halls, our flight through this process we call democracy. We heard last night in a very brief comment from Representative Meres of what her process of deliberation has been, exploration and information gathering.

I would like to spend a little time, if I might, talking about my association with this issue. Some time ago, before a decision was to be made about a special session, I spent significant time on the second floor, through personal visits, phone dialogue with the Chief Executive, phone dialogue with his staff. The issue is fairly simple to me. Even though there was a 70 percent support in the first poll to pass the referendum before us, we felt that the people really weren't in favor of a citizen initiative that would destroy the economy of the state. I thought it was quite simple. Governor, all you have to do is get on the tube and tell the people of Maine how bad this is for the economy. You have

done a good job with the compact and the deliberation. You have brought the people to the table. We have acknowledged questionable forest practices of the past and educated the people to the efforts and consensus you have brought. Put a bill in immediately to explore the compact in the upcoming session of the Legislature, the 118th. It just seems very simple to me that we could defeat the referendum, educate the public to what has occurred between the large landowners and the environmentalists. We should put a bill in and do the deed and explore the process as people would expect. Through long deliberation, we may even get a chance to carry this bill over. It is that significant. Let's spend 20 months exploring it, not 20 days.

In the process, I was able to spend some time with industry representatives. Their feeling at the time was that they were committed to the issue, whether the Legislature does something or not. We are committed in January and we are going to begin an audit. We are going to make those results public. We are going to do something to remove the impression that we are bad stewards of our forest, which isn't the case. Thirteen of the fifteen large landowners, as I could secure information, was against a special session or a competing measure on the ballot, if, in fact, it became a competing measure. I was in discussion with one of the two and it was my understanding that if it became a competing measure, they weren't interested either. That was my impression of the discussion. It just didn't seem to me that there was a whole lot of support to put another issue or a competing box on the ballot. Within the last couple days prior to the decision to have the special session, I, again, had a conversation with the Governor. Again, it was my impression that if it became a competing issue, he had little to no interest in calling a special session.

The day the ruling came back, I was at an event with the Governor and I mentioned something about the response from the Attorney General. At that point he said, "I am still considering it." It appeared to me that a competing issue was to go on the ballot and it just seemed like things were changing a little bit. Once we got into the special session there was a concern that the public be involved. To this date, the public has essentially been excluded. We had the 15 large landowners. We have four environmentalist groups in the Governor's Office. Public hearings are a very significant component of due process to the people's business. There was some interest on the second floor to have, simply, one public hearing and have it in Augusta.

I was involved with universal health care, L.D. 1285, in the 116th. We had five public hearings across the state. We learned something very different from each one of them. Public hearings should have been held in York County. It should have been held in Lewiston. It should have been held in Bangor and Augusta, centrally. It should have been in Washington County. It should have been in Aroostook County. We not only didn't want more than one, but we wanted it here in Augusta where the political pundit have the significant input. We have all sat behind those committees where we looked through information. We obviously know that those most versed and highest paid are going to give us the information that they want us to hear. The real information comes from the people. When we get

people that stand before our committees and stumble over words and maybe don't have their \$1,000 suits on and take the time from their businesses to come and talk to us, we listen. You can't do that with one public hearing in Augusta. I am very happy that we at least had three.

I visited one of the public hearings, the middle hearing in the morning in Augusta. It looked to me like the political pundits were lined up in a row and they had all the same things to say. They knew what they were to say because they had been put in this little box and this little box was just about to be nailed shut and the match was about to be lit. It wasn't a box they wanted to be in. Privately, the pundits would agree that we don't really want a competing issue, but we are here and we have to go with it.

I spent some time before the hearing visiting an industry-sponsored seminar in Bangor. We were all invited to them. We all sat through them if we had time. I went to listen. I know a lot of you don't think that, but I didn't have my mind made up and I was trying to secure information as to what I was to do. I listened and I learned a lot. I learned that 17 million acres are in forestry. I learned that 55,000 acres were clear-cut. I have since learned that 39,000 acres were clear-cut in 1995. There were 55,000 acres, .03 percent of the forestry in clear-cuts. I asked the commissioner, what is the problem? He shrugged his shoulders. The average clear-cut is 35 acres in size. I learned at the hearing, Jonathan Carter mentioned, 33 acres is the average size. I also learned that they, which we couldn't define, needed an alternative. We really don't know who they are, but the pundits tell us, they need an alternative.

Well, I asked about the fiscal note. How much is this legislation going to cost us? This legislation is going to cost us \$400,000 in education. The \$400,000 is coming out of the Governor's budget to educate them, who need the alternative, that forest practices in the State of Maine aren't quite as bad or the industry isn't practicing forest practice quite as bad as they think they are. I also learned that we couldn't put a number on enforcement. How much is the additional enforcement to this going to cost us? I also learned that the revenues and the set aside, which account for maybe \$50,000 a year, is going to be taken out of the revenue stream to manage our public property.

Essentially, I came away from there seeing that, yes, we had some questionable practices in the past, but things seem to be going pretty well. This commissioner, at the end of the discussion, pulled out a little piece of paper. The paper said our forestry stocks have increased, every species has increased, except softwood. Softwood are on a decline to a point of 6 percent. What does that due to, commissioner? Spruce bud worms? Does that mean it is not due to clear-cut? Yes, that means it is not due to clear-cut. By the way, softwood is on the incline. Simply, as I came away from the informational meeting, this is an education bill. This is a bill to educate the public, who feel they needed an alternative that the forest practices aren't quite as bad as you, the people, think they are.

I could go on for a long time, but as I can see, you are beginning to glaze over and I will sit down. This is essentially a political pundit against the

people, the people in my area, including the union members who spent all their summer trying to defeat this measure at the fairs. I went to the Blue Hill Fair last weekend. I went up to the booth and I said, how am I to vote? They didn't know I was a legislator. They said, "Vote no." I said, I mean on the compact. That took them back a little bit because most people aren't asking about the compact. Then I said, well, I am in the Legislature and the Legislature is going in special session. How do you want me to vote on this compact? The issue that is coming before the people. Should I vote it up or down or do you need a competing issue? They said, "Well, last week, at the fair and this weekend at the fair, I have been trying to explain this compact to the people. I finally put the compact out back, but I can go get it. The people are saying, vote this thing up or down. We don't understand the compact. Do you?" I said, well I have read it a few times, but, no, I don't.

This particular union member called me at 11:00, not last night, but the night before and began to tell me the story just like the political pundits have. He began to speak about this horrid picture that the "Greens" are going to put on the tube and how devastating they are and how the people are going to vote against clear-cut all together. That is the story I heard way back before we got this call to special session from the Governor's Office. These stories just keep going around and around and around and they are all the same story. This wasn't the story he was telling me Saturday at the fair. He said, "I have spent all summer trying to defeat the Green Party Referendum. I have deep convictions about that." He then went on to tell me about the compact. You could hear his voice wavering and then he said, "I am committed to defeating this compact and I know we can do this." Excuse me, let me back up on the record. The citizen initiative. "I know the people are going to defeat the citizen initiative." Then he proceeded to tell me that I should vote for the compact. I could feel his voice wavering. His conviction wasn't there.

He started using that word conviction. I don't have the same conviction for this compact that I have to defeat the citizen initiative. What are we going to tell these people? How are they going to handle all these issues when they go back after this session? I told him. I said, I am going to have to speak your conscience and speak for the people of Maine who don't want this competing issue. I am going to speak against the compact and go for an up or down vote. He said, "You are doing the right thing." I would advise wholeheartedly that we consider that and vote against the pending question. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House: Are we taking a complex issue to take what should have been a exhaustive public policy debate and reducing it to a few months of behind the scenes politicking followed by a high-speed railroad trip to the Legislature as a newspaper columnist suggested. You might ask, if we are, is this any way to run a railroad? Are we doing justice for the citizen initiative process by what we propose to do today? Is L.D. 1892 really a better solution than the clear-cutting ban? Can the

problem, if there is one, be solved by enforcing existing laws? There is conflicting testimony from experts from both sides of these issues. Are we a government by the experts, by the experts and for the experts or are you a government of the people, by the people, for the people?

The ban clear-cutting proponents say just give us more control of the private property rights of the large corporate international timber companies and all will be well. No paper compact for Maine forests proponent vote with us. Our proposal is not as drastic. It is a result of compromise and consensus. Oh, by the way, we want control of the property rights in the whole state, not just those owned by the large timber companies. The large timber landowners say we have a consensus forged from a diverse group with different interests. We are willing to accept more regulations on the use of our properties, but are they?

At the public hearing in Lewiston, one of the representatives from a large timber company said that the compact would help him practice sustainable forestry. I asked him, does your company now and has it practiced sustainable forestry? He got very upset with that and his face flushed and he said, "Yes, we have been doing this for 100 years." I asked him if that was the case then how would this legislation help him to do something he is doing already or is this bill a political bill or a public relations bill? His answer was very less than convincing. In conversations with some of the large timber company personnel, I was told the same thing. Yes, they are practicing sustainable forestry, but they are doing a poor job in transmitting that fact to the public. My response was that I was not willing to sacrifice somebody else's property rights to improve the public image of the large timber industry.

During the public hearing, Senator Lord, repeatedly asked the timber industry representatives if they thought the environmental group would stick to the compact or be back next year for more. They responded that there was no way of knowing that, that they felt confident that the agreement would hold. I brought with me a document written by Neles Hampden, Executive Director of the Washington Farm and Forestry Association, in the State of Washington. He presented this before a symposium of nonobjective foresters in Washington D.C., February 18th through the 20th, 1996. I will read from the document.

It is titled "The Birth of Uncertainty." "Washington Forest Practice regulations have long been considered among the most restrictive in the nation. So restricted that they have been quite stable since 1974 when the state became a leader in adopting regulations to stop the abuses of the past. In 1984 and 1985 some pressure from the Forest Practice Board from other governmental agencies and environmental groups to require a 200-foot buffer on each side of the forest and stream. We have a lot of streams. There was also a clamor for up-land set aside for undefined wildlife habitat. The Forest Practice Board was about to adopt an array of new rules to accommodate both, when a new and novel group was created. It was called the Timber, Fish and Wildlife Group or the TFW Group. The TFW Group had clout because of directors of state agencies, Indian Tribes, environmental organizations, landowners, both industrial and nonindustrial. It was an ingratiating group that decided issues by consensus. The group agreed on a rules passage in 1987 requiring

reasonable stream-side buffers and up-land habitat for wildlife. The Forest Practices Board adopted a far more balanced rule passage than the one it originally considered." Does this sound familiar? "In 1988, the very next year, environmental groups and some state agencies insisted that the TFW Group reconvene to draft another layer of rules on top of the first practice. Even the most prominent realized a new and more ominous risk to the tree farm investment, had moved to the forefront." We all know that could never happen in Maine.

The representative from SWOM, Small Woodlot Owners of Maine, testified and supported the compact at the hearing. I asked them if the Board of Directors had polled their members. He said, "They had not, because there was a lack of time." Think of that, a lack of time. I was at the annual meeting of SWOM on the 24th. I also did not poll the membership in attendance, but the people I spoke to did not support this compact. The common words were, don't pass it. We are regulated enough. I don't need another form to fill out. SWOM is to be congratulated on the great job they do at managing their woodlots, but as a forester said on the tour I took on the woodlot, "A commercial operation could not use these methods and make a profit." Not everybody belongs to an organization. I would venture to say that the vast majority of people who own small woodlots do not belong to an organization. Some of those people came to testify in Lewiston, Augusta and Presque Isle are hardworking people who can ill afford to take a day out of work to come and testify, but felt compelled to do so to express their civil rights. Yes, their civil rights. Private property rights are a civil right, no less the freedom or civil right as the freedom of speech.

People would testify, choke back emotion, holding back tears and pleading for us to leave them with what little property rights they have left. We heard testimony from professional forester, Malcolm French, who grew up in LaGrange. He told us a 74-year-old woman, who with her husband purchased 300 acres of what was then called strip woodlands. They purchased this property from a logger, realizing that in 30 to 40 years that land would again mature to harvest and provide them with retirement security. The husband has since passed away. The property was appraised at \$100,000 in timber value. The forester testified that if this contract goes through and becomes law that appraisement would drop down to \$50,000. Mr. French said at the end of the testimony, "I hope you will consider what making your decision on this issue, whether you want to be part of taking nearly half of this widow's retirement and the thousands more of small woodlot owners. Did these people speak out because they opposed efforts to protect the environment? I think not.

The infringements of constitutional rights, not in opposition to environmental protection provokes people to speak out for the principle that says, no motive no matter how laudable its purpose can justify violating the constitution. These people feel as though their constitutional rights are violated. Do we really need more restrictions and regulations on the use of private property? Let's take a look at a short list of what we have now. I mean short because I am sure a lot of you people need to figure some more, Clean Air Acts, Clean Water Acts, Endangered Species Acts, Natural Resource Protection Act, the Wetlands Act, Shoreland Zoning Act, both state and

local, Forest Practice Act, local ordinances, subdivision ordinances, lead ordinances, hazardous ordinances, zoning ordinances, Land Use Regulation Commission, comprehensive planning, building codes, Site Review Law and on and on it goes with more and more federal, state and local regulations. The police powers of government are ridiculous. Do we really need to expand them? Is it not true that it is private property rights as conformed by common law and significant harm that is the ultimate answer to environmental protection?

Proponents of this compact say that we have a consensus, a consensus sometimes has a tendency to steamroll over people who cannot afford to take time out to be a stake holder, to hire lobbyists or be a presence in the committee work session. These other people who are forever in my thoughts when I deliberate. I am sure they are in all of yours. Again, the feeling among them is that we had to do something. Anything or the voters will pass the clear-cutting referendum. I don't believe that for a minute. I have great faith in the ability of the voters of Maine to make a reasonable decision based on the information provided them and it is up to the opponents and proponents to make their case. That is where efforts should be directed. In this life there are issues on which people may reasonably compromise. There are issues over which we must fight. Private property rights are the flower of democracy. Please vote against the pending motion so we can say, out of this little danger, request this flower sacred. Mr. Speaker I request the yeas and nays.

Representative WATERHOUSE of Bridgton requested a roll call on passage to be engrossed.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I am going to talk about some process questions even though I have some specific objections or concerns about this, the matters in the bill itself. I think they have been ably covered both in caucus and will be covered further in the discussion here. To start that, let me ask a question. It is a rhetorical question. Does anybody really believe that this bill that we have before us now, this compact, would be the same as if we had it submitted to us in January? I think the answer is obvious. I think the whole process would be different in January. I think we have special circumstances here which have arisen, which some people have seen as an opportunity to pressure us, as lawmakers, and other people into supporting a bill that they might not otherwise support or at least some provisions of the bill that they might not otherwise support.

Does it bother you that you go around the halls here and you find people who say, yes, I am committed to this compact, but, well, really, if circumstances were different, if I hadn't been boxed in, I might feel a different way? I run into people like that. I think many people have run into people like that. Doesn't it give you a little bit of concern when you start hearing language like that? Doesn't it begin to give you a little bit of concern when the Legislature is brought in at the end of the process when there has been a secret process by which people have gathered together, perhaps legitimately, representing all of their membership and perhaps not, we don't know exactly? Doesn't all of this bother

you a little bit? Doesn't it bother you a little bit that we are brought in here for two days after two days of hearings in three different places, within the course of a week? Do you think that this is good legislative practice? Do you think that this leads to good law?

The fact is that someone saw an opportunity because they thought that they could pressure us into passing something that might not otherwise have passed. I don't like that. I don't think that you like that. I think that we ought to send a message to defeat this and take up a reasonable prospect under more normal circumstances in January and address what problems there are.

Under suspension of the rules, members were allowed to remove their jackets.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Lumbra.

Representative LUMBRA: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative LUMBRA: Thank you. For any member of the committee, if there is a committee member here. Did the committee hear testimony and take into consideration the disadvantage that we are putting on our foresters in Maine versus the foresters in Canada? Was that a topic and if so, how did you deal with it?

The SPEAKER: The Representative from Bangor, Representative Lumbra has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Men and Women of the House: That exact issue of any disadvantage to foresters was not raised.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I think the issue of foresters being disadvantaged was, in fact, indirectly dealt with by the fact that the Green Party Referendum would put most of them out of work. Although we may have differing opinions of what is the best process to defeat the Green Party Referendum, which most of us here, do, in fact, want to do, it is important that we understand that there are risks either way. There is a risk to having only an up-and-down vote. What I have heard from a number of my constituents is that we must do something. Clear-cutting is a terrible thing. There aren't any trees left in northern Maine. This is awful. If there is not an alternative, I will vote for the Green Party Referendum and I hope you will fix it next time.

First of all, I don't think there is going to be an opportunity to fix it next time if it passes for a couple of reasons. If it is presented to this Legislature as having been passed by the people, I think there is going to be great reluctance and there ought to be great reluctance in terms of changing it. Second, a number of businesses have already slowed down, including a machine shop that is a half a mile from my house that has already lost 20 percent of his business because people are slowing down the

orders now. If this passes, there will not be an opportunity to salvage a lot in January because there will have been already a lot of changes.

The concern is how, in fact, do we present an option and should we present an option. Some of us feel that we should present an option and others feel that we shouldn't. That is a legitimate disagreement. What the issue is before us right now is, what is in this bill? What are the options that are available and should it, in fact, go out to the people. This bill had three days of public hearings in various parts of the state. Certainly, not the entire state was covered, but it was an attempt. If this bill had been presented to us in January, it would have been heard in Augusta and on one afternoon. This bill had three afternoon hearings and three evening hearings. It had more public hearings than any other bill that has come before the Agriculture Committee in the two years that I have served on it. This bill had two full days of work sessions. Not the usual work session where we are running back up here to deal with roll call votes or trying to figure out where our other bills are. A work session that was, in fact, specifically dedicated to the process of dealing with this bill.

The working group that has been meeting all summer long has been asking questions and preparing themselves for this process, for the bill, for the possibility of a compact, for the special session. They have been working all summer long meeting regularly. My concern is that if we don't pass this compact, we will not leave the many people that we have not heard from who are in the middle on this issue, who feel that something needs to happen, but not the clear-cut referendum, we will not give them a place to go.

What does this compact do? It establishes a forest natural resources educator position and an advisory committee to provide more education for not only the forest landowners, but also for school children and the general public. It requires that all rules are substantive as rules and they must come back to the committee of jurisdiction over forestry before they can be implemented. It defines a clear-cut. It defines a clear-cut with one-third more basal area less in the woods than is currently being left. It caps the amount of land that can actually be clear-cut by a landowner per year and over a four-year period. It reduces the size of a permissible clear-cut from 250 acres to 75 acres. It redefines separation areas. It has towns using the state-defined terms in their ordinances, so that when an absentee landowner or a log harvester goes into that town, they will know, for example, that the term clear-cut means what state law says it means. It has not been differently defined by a municipality. This is very, very important to the small woodlot owners in particular and to the log harvesters. They are absolutely hog-tied when it comes to working in several different towns, which may have municipal ordinances and they don't know what the definitions mean, because right now they can mean anything the town says and not relate to anything scientific or legal.

If a stop-work order needs to be issued, it must be issued from the director of the Bureau of Forestry. It uses the same penalty formula that is in the Forest Practices Act. We talked a lot about that. It should be the same penalty. There should be an opportunity to link the two as much as

possible. It establishes a voluntary audit program with benchmarks. It asks the Bureau of Parks and Lands to inventory all reserve lands, by acre and by forest community. So we know what, in fact, we have in protected lands. It asks for public input into that process and allows them to increase that amount by 8 to 10,000 acres.

One of the most interesting things that I heard during the discussion on this bill was how important this was to the large landowners because one of the issues that they are dealing with now and will deal with much more in the future is that people are coming in and saying, your harvesting practices are doing terrible things to that woodland area. They are starting to put reserves in place now on their own privately owned land so that they have something to compare to. They can go and look at the same kind of forest communities that they are harvesting in and look at one that is not being harvested and compare the two and either defend or maybe make changes in their harvesting practice. It is a lot easier to do that based on real information than it is to do that based on a supposition that doesn't have a place to look to compare what has been harvested to what is not harvested. I think it is really important that we have public land in that process because I don't think we should leave that entire burden onto private landowners, which is where it is now.

It talks about timber liquidation. Timber liquidation is land that has been terribly overharvested in a period of less than 10 years. It is the cut-and-run folks that we hear about all the time. What it requests in the bill is that by April 1, 1997, the Governor must submit legislation that would deal with further restrictions in timber harvesting. Obviously, that doesn't prevent anyone who is coming in in the 118th Legislature from submitting that legislation in advance. It also asks for a look at what is currently going on in terms of timber liquidation to resolve some of those issues.

Finally, based on the amendment that was offered yesterday, it adds additional field foresters and has those spread out over the state. That is what the bill is before you. That's what it does. I hope you will vote this bill to be engrossed and finally pass this to be enacted. I think it is a reasonable middle ground step for the people in this state who are saying that we are not sure what is going on. We think it is important to do something about clear-cutting and we want to do something. I think this is something. It does restrict clear-cutting and it also deals with a number of other issues that are important to a variety of groups. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: We are brought here for this special session for a problem or a perceived problem. That problem is clear-cutting. It is certainly an emotional issue and I believe it is mostly a problem of perception with most people. The use of clear-cuts and clear-cutting practice is an accepted method of forestry. There is a place for it when it is done correctly and that is the problem. A few people, landowners, loggers and companies have not done a good job and that is why we are here today. As you know, I am a member of the Small Woodland Owners Association. My wife and I have an 155-acre farm, part of the American Tree Farm Program. We are members of SWOM and I want you to

know that even though SWOM is shown to be a backer of this compact, that not all of its members agree with that stance. The people in my district from woodland owners, loggers, truckers and mill owners don't want the compact and they certainly don't want the Green Party Referendum.

When I look out of my window in my kitchen, I can see a pine stand. These trees are 50 to 75 feet high. They are 14 inches or greater DBH or diameter breast height or what is called in forestry language four and a half feet above the ground. My mother-in-law can remember that land as pasture land. There used to be a barn, in fact, I have a picture of it at home, right on the edge of that pasture land. That was a clear-cut. It is now a forest. We operate our 150 acres of woodland under a sound management plan. We manage it for wood products, wildlife and recreation. Yet, a generation ago, 120 acres of that farm land was indeed farm land. It was cleared fields for hay production, crops, grazing, etc. What I am getting at is there is a place for clear-cuts. They are not all what people would make them out to be. Let's not rush into this emotional issue with a solution that is just that, based on emotion. Let's have the solution be a scientific one because that is what the problem demands.

I will be voting against acceptance of the compact, as I have said all along. I urge the rest of you to do the same. Thank you.

The SPEAKER: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I agree 100 percent with the good Representative from Bethel, Representative Barth. I also agree with the good Representative from Wiscasset, Representative Kilkelly. All of the issues that she talked about are being practiced today. The issue of clear-cutting took place back during the spruce bud worm problem that we had a few years ago. There was a lot of clear-cutting that took place at that time. It was a management decision made at that time by the forest industry to either allow that forest to fall down and not be used or to clear-cut it and use it at that time. Most of those forests today have started to grow up with good stands of wood.

The problem with this bill is the takings issue. The private land use issue. Every time we convene this Legislature, we take away land use rights from our citizens in this state. That is a big problem. They don't recognize it as the takings issue unless they take 100 percent of the value of your property. Believe me, 10, 15, 20 percent today, 10 percent tomorrow, is forcing a lot of our small landowners and folks that are using their land for retirement income is forcing them into a predicament where they have to sell their woodlands. LURC has just created a land use plan for the unorganized territories. We have upgraded the Forest Practices Act of 1988. All of these changes that we have made, we haven't given them a chance to see if they are going to work. There is no question.

For the past two years, I have worked with a group called Project Share, up in the Washington/Hancock County area on restoring the Atlantic Salmon habitat. Private industry has been very cooperative in financing the programs. All of the environmentalists, citizens groups have been involved

in that and it is working. Those are the types of programs that are working. The industry, being good stewards of the land, they are now working with Inland Fisheries and Wildlife. The good Representative from Waterville, Representative Jacques, eluded to that yesterday. They weren't involved in this contact because they are working with industry. Industry is cooperating with them in their endeavors on restoring the cold-water species and the wildlife management. I think that this compact is a reaction to the Green Party problem and I would urge that we don't react to that and complicate the problem and make two mistakes.

There is no question what the long-term goals of Restore is. They sent around brochures a few months back, showing exactly what their intentions are. Making the north woods of Maine a National Park. In Washington County, we have Moose Horn Wildlife Refuge. Believe me, that expands every single year. It has gotten to the point where they are using the threat of eminent domain to take people's property. If you think this is a pretty sight, you watch and see what is going to happen down the road when we are looking at the north woods as a National Park and the threat to land use at that time. I would urge you to vote no on the engrossment of this bill and allow the Legislature to deal with the issue when they can hold public hearings and the people can have some input. I would urge you to vote no on this.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Lumbra.

Representative LUMBRA: Mr. Speaker, Men and Women of the House: I asked many questions yesterday and I asked many questions today. I found a common denominator through all the questions that were asked. The common denominator was a shrug of the shoulders, many times. What does this word mean? How does this affect people? I don't know and then to go on, did the committee hear direct testimony and directly take into account how this will affect our Maine foresters versus Canadian foresters? No, they didn't directly do that. Did the committee take into consideration their effect on housing cost? No, not directly. Are their guidelines in statute, in writing, that guarantee that on this board there will be a representative for the Green Party, a representative for the small landowner, a representative for the paper mills, etc? Is that in writing? I can't find it. I was told yesterday, don't worry about what the bill says. Don't worry about the words. We are just voting on a concept. That really bothered me. Last night when I went to the hotel, I thought, why does this bother me so much? Why do I take this so personally? Why am I so upset to have someone say that to me?

I realized that the reason is, because right or wrong every single bill that we have in this House that we vote on, I have a face on that bill. I actually see people that it will directly affect. I think that we would all be better to take every bill and put a face on it, not just a piece of paper, not just a concept. This is going to affect every person in the State of Maine. Can you think of one person directly that you can put a face on this bill and then sleep at night if you don't get every answer to every question besides the shrug of the shoulders or just vote for a concept? I haven't got those answers.

We talk a lot in here about housing costs. We have heard that a lot. It only stands to reason that this will affect housing costs. Lumber will go up.

The price of lumber will go up. The price of repairs will go up. Jobs will definitely be lost. There is no question about it. We are supposed to just say, well, if something like that happens, we will fix it down the road. I have never seen a bureaucratic system developed that we have an easy time fixing down the road. It breaks my heart to see so many empty chairs. There could be reasons for that. I am not questioning the motivation behind the empty chairs, but it does break my heart that we are debating a bill that will affect every person in the State of Maine. We have people out in the halls that are here because their livelihoods and their families are depending on what we do in a two-day period, without even questions being answered. If they are taking the time off their busy schedules to be down here, we shouldn't be disregarding their questions.

I join colleagues that have stood up and said that they will be voting against this compact. I would ask that if we don't get straight forward answers to our questions, that we defeat this. Thank you.

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

Representative LABRECQUE: Mr. Speaker, Men and Women of the House: I have a few questions, if I may to the Agriculture Committee.

The SPEAKER: The Representative may pose her question.

Representative LABRECQUE: Thank you. In Committee Amendment "A," page 16, line 6-8, at the top of the page, there is a question. I will read this. "After soliciting public comment through public meetings the Bureau of Parks and Lands may establish ecological forest reserves totaling between 8 and 10,000 acres on public lands, but are primarily available for timer harvesting." I assume that may be a typographical error. If it is timber, I understand, but if it is timed, I would like a definition of timed harvesting. Does this sentence also mean that in these established forest reserves, timber harvesting is allowed? Thank you.

The SPEAKER: The Representative from Gorham, Representative Labrecque has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: In response to that question about the word timer, I believe, that is a typographical error. It must be. I don't recall, timer harvesting.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I will start off by saying, I guess, that I am not an expert in this field. I never have been, but last week during the hearings, I feel that myself and the committee members did the best job that we could to hear testimony of the pros and cons on this L.D. In response to the Representative from Bangor, Representative Lumbra, I would tell her in my years that I have been here, I have never got all the answers to all the questions to all the bills that come before us and there is no way you could do it today on this. There is going to be issues that come up in the future that we cannot deal with today in regards to this issue. You will never pass a bill in this body that is perfect. No matter what you do here and no matter what side of the issue you're on here, there is going to be differences. I also will

say that what I say here today probably will not change anyone's position. I understand that.

When we went through the hearing process last week, there were people who spoke in favor and there were people who spoke against and we got the same situation here. Where I came down on this issue was that I looked at what should I do for the majority of the people in the State of Maine that we could put forward that would be, in my opinion, the best results after the November referendum. I will tell you where I am coming from and why I supported the compact. The gentlemen in the left-hand corner, Representative Carleton earlier said, "Why now and not wait until January?" In my opinion, in the last few months, we have got all the parties together that are professionals, I believe, in this issue. They were able to come together with a compact proposal that I think makes a lot of sense. Do I think that you will get them back together in January? The answer is no.

If this fails and if the referendum fails in November, the petition initiative, I don't call it the Green Party Referendum like a lot of people, I call it the ban clear-cutting proposal, if you think either way today in November, that this has gone away, forget it. If the ban clear-cutting should go down in November and if those people are as smart as I think they are, they will be back with another petition and they are going to put together a proposal that will have some of these parts and they are also going to have ban clear-cutting in there that is stronger than what you have today. I believe in the process. I have heard people say that this is setting a precedence and you don't want three items out there. That is not true. We have had these issues before.

I know many of you have a copy of the specimen ballot that was done in 1985. At that time, the initiated bill passed by 50.25 percent. I believe that we can pass the compact in November by that margin or greater, if we do our homework and if we pass it here today or tomorrow. My concern is and it has been since the hearings last week that if we do nothing with this proposal and the ban clear-cutting is the only issue in November, then hopefully it will fail. I can tell you that those people are going to be back and if you don't think they aren't going to tie the industry up for another year, you have another thing coming to you because they are going to. That is my concern that I have had all summer. If the industry and they have been out there doing a good job, a lot of the small woodlot owners and I commend them for it, of passing the word around the vote no on the referendum. I agree with that. They are upset and concerned right now that they have to change the direction they are going and support this compact. That is a valid point they make. It can be done.

We have no guarantee that the ban clear-cutting referendum would go down in November. We hope it would, but we have no guarantee it would. If it should, what you heard from the Representative from Wiscasset, Representative Kilkelly, and I have heard this spoken by some members of this body that, if it should pass, we will be back in January and correct it. There is no way in this body in 1997 is going to come back and correct an initiated referendum if it passes. My opinion, if it fails, you are not going to get the group back together in January as you have the last three months. That is my concern. That is

why I voted for the compact and I believe that this is the best proposal that we have and have the competing measure on the ballot.

At this point, the Speaker recognized the Representative from Bangor, Representative STONE, who was added to the quorum call of the Second Special Session of the 117th Legislature.

Representative JACQUES of Waterville was appointed to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from LaGrange, Representative Hichborn.
 Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: We are discussing an issue that very obviously is very controversial. It is misunderstood. It is an issue that has been misinterpreted, maligned, distorted and it is the lack of factual information, I think, that has generated a great deal of mistrust, fear, misunderstanding and even some hysteria. I certainly don't question the sincerity of anyone who has spoken here this morning. I don't question the sincerity of people who have very definite ideas about what is right and wrong. To me, the issue is not the compact. That is not the basis of the way I am going to vote. This is a very faceted problem. Some people are concerned with clear-cutting. One thing that hasn't been mentioned here this morning that is very important is one large segment of our people here in the State of Maine is a question of a National Forest that would include 3.5 million acres of land here in Maine. They are taken out of production, so far as industry is concerned, probably forever.

There are those who are concerned about trespass. They are talking about rights, property rights. They are talking about the takings issue. They are talking about environmental issues. Everybody is looking at this from a different point of view. A lot of us are hearing from the people who are being very much confused, just as confused as you and I are and that is the compact. We all know what happened a year ago when the group got 58,000 names to ban clear-cutting and to initiate a referendum. That certainly struck a cord of fear in the hearts of anyone who owned land or had a paper mill, lumber mill, who had a job related to forestry. At that time, I didn't see anybody from this body or the other body jumping on a great white horse and riding forth to help those people. At that time, polls indicated that if a vote were to be taken on the issue that time, that 70 percent of the people in Maine would support the referendum.

What did those people do? They got together the idea of partaking themselves. The big ones probably started first. We know they did. Then they turned to the environmentalists and the Audubon Society and everybody who wanted to work. They worked for a year. This isn't anything that was created overnight. It is nothing that was behind closed doors. The small woodlot owners were represented. I am a small woodlot owner, too. I wasn't invited, but I am not offended and I don't think there was anything wrong that I didn't get an invitation

there. The people who were interested came together and said, what can we do?

The question of silviculture is not a new topic here. Some six years ago after a lot of deliberation, a Forestry Practices Act was enacted into law by the Legislature. It didn't fulfill all its objectives because its funds for policing the rules and regulations that had been written into the forestry practices law were not forthcoming. It was not as productive as perhaps it should have been and was intended to be. What good did this study do? These people got together and took their information to the Governor and wanted to know what could be done. Eventually, the question came up if there should be a special session to consider an alternative. At that time, so far as I know, I was one of those who sat in on that particular meeting. The polls indicated a 50/50 chance. Fifty percent of the people would still support the initiated referendum.

The question was, should a competing measure be put forth? I had people in my district who said if you don't give us a choice, we are going to support the referendum. That was my reason for voting for the special session. This is a political decision. The strategy may have been right and it may have been wrong, but the decision was made to have a special session. My thought was that if there is to be a choice, people should have the right to vote. We are talking about property rights, but there is something far more important to me than property rights and that is the right to vote. That seems to be the basis of democracy. I certainly would feel that I would be rather conceited to go back to my constituents and say you don't need to bother to have a choice, I will make the decision for you.

I was born on the land and born in the woods. I have lived in the woods all my life. If I am lucky enough to get out of Augusta alive, I am going back to die in the woods right in the house where I was born. I think I have a feeling, the feeling that the environmentalists have. I will never get any closer to heaven than I will be when I get back there. I am sentimental about that. I am also practical because I know that we are talking about a subject that relates to the jobs of thousands of people. It should never become political at all. There should be no connotation of that sort. The man who is trying to feed a family. The man who has a mortgage to pay has a problem. What difference does it make whether he is a Democrat or a Republican or an Independent? I am not so conceited as to think that I should go back and tell him that you don't need to bother, I will decide it for you.

We, here in the Legislature, are not expert foresters. We don't know too much about silviculture. These people who got together represented a big industry group. We did have a couple of legislators who, in the summer, went to several meetings relating to the Forest Practices Act, meetings to discuss the problem and what could be done and I can see a lot of faces here that I didn't see at those meetings last summer. As the political year ends, a lot of people are becoming interested and they want to know what we think. I sat in on these hearings during these last three days in Lewiston, Augusta and Presque Isle. The people are confused. They are asking a lot of questions. That is justifiable. That is what they should do. I think that you and I, Democrats and Republicans

alike, should inform ourselves about this so-called compact in order that we may answer questions. I am getting questions from both sides. I am getting encouragement from both sides to vote both ways. You can't do that. Regardless of what the compact says or does, I think that the decision should be made by the people. I think that is a key to real democracy. I don't feel afraid. I don't care which way they vote. They can vote one way or they can vote another way. That decision should be theirs. I don't think we have any right to take away from the people, the right of choice. I would hope that when we vote, we think of the people and not of ourselves.

I might also say this. An independent individual by nature, nobody has given me any money from my election. I am not running for reelection. I have always voted for what I thought would be in the best interest of the people and what I thought was right and that is what I am doing today. Nobody is twisting my arm. They are twisting it, but they are not getting any results. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative DiPietro.

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: You know, I want to talk on this subject, but I got to tell you that the only woods and forests that we have is a little part across the street from my store. That is all we have. I want to also say that we have been talking about this issue now for about three or four months. We have had hearings after hearings after hearings. We got literature. We got phone calls. I don't think that anybody who is going to stand on this floor today is going to change anybody's mind on how they are going to vote on this issue. All I want to say to you is when you run for reelection you either have somebody from your party run against you and you come out victorious there. When you run in the general election, you have somebody running against you there. Give the people of the State of Maine the same opportunity here. Let's put the compact on the ballot also, that people will have the choice. That is all I am saying. Give them the choice. You know, the people of the State of Maine, sometimes we don't think they are as intelligent as they are. I want to remind you of one thing, they have all elected us so they can't be too stupid. We are all here. They must have some intelligence. Okay!

I just want to tell you that these people know what they are doing. They know more about this problem than we do. They live it. What they should do is have the opportunity. I think that is what we should do. I have listened to people tell us this morning about their life history. I have listened to people tell us why we should do it. Let's give the people the opportunity to do it. They know what they want. Mr. Speaker, I move the question. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative CLUKEY: Thank you. I went to the hearing in Presque Isle and during the hearing a forester from Frasier Paper Company was testifying in favor of the compact. He was very knowledgeable about the forest and I was really impressed with his knowledge. After he was through testifying, Senator Lord asked a kind of interesting question and I

thought he got an interesting answer. He asked the question, will this compact actually allow more clear-cutting than is currently allowed under the present forest law? The answer the forester gave us was, "Yes." Nobody disputed that answer. I would like to ask the question to anybody who may care to answer. Will this compact actually allow more clear-cutting than is currently allowed?

The SPEAKER PRO TEM: The Representative from Houlton, Representative Clukey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House: I went to the hearings last week in Lewiston and Augusta. I listened to the Director of the Maine Forest Service say in answer to that question, that the theoretical maximum or cap on the clear-cut for this would be 384,000 acres, maximum. I think that answers the question. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House: I think we all agree that as a Legislature, we should be writing laws that solve problems. In this case, it seems to me, that we are not writing the law that solves the problem, we are writing the law that manages the problem. That is what this Legislature has done over the years and that is why government is so large and that is why the solution of this problem isn't going to be the compact. Look at what it is going to do. We are going to infringe upon the property rights of private landowners. We are going to create a bureaucracy controlled by state government that is going to supposedly enhance forest practices. I don't know how that is going to happen. We are going to do all of this through taxpayer dollars. I have yet to be convinced that a problem exists. I don't think it is going to be worth the expense involved and the agony involved and the time involved for this Legislature to enact a compact when, indeed, we would allow the citizens to vote on the original referendum, the issue would be solved in November. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: With apologies to Representative Lovett, for taking so long to get back to her. The Revisor's Office is on the issue of the typo. It will be addressed. That was a typo and it is being addressed and thank you for pointing that out.

To add to what Representative Gooley said in terms of clear-cutting, I think it is also important to know that a clear-cut is going to be defined in a stricter sense. Currently, the Forest Practices Act allows an area to be clear-cut down to 30 square basal feet and that can include a percentage of 1 inch trees. What this compact does is to raise that to 45 basal feet and does not include trees smaller than 4.5 inches to be included. One of the issues we heard yesterday was that we could have a stand of five-foot-tall saplings used for regeneration and that would be considered okay, as long as they are spread out over the area that has been cut. I guess my feeling about that is an area that has a well dispersed stand of five-foot saplings doesn't, to me, feel like a clear-cut. It, in fact, is an area of regeneration. I think that is another important

issue to raise in terms of what it is that we are changing and what it is we are defining. We are, in fact, significantly impacting on clear-cut areas in size, but also in what is defined as a clear-cut.

To follow up the previous couple of speakers who have talked about the people's right to vote. In 1820, on September 28, the same year that Maine became a state, Thomas Jefferson, in a letter to William Charles Garvis, wrote this, "I know no safe depository of the ultimate powers of the society, but the people themselves. If we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform them." I would say that after we leave this session, hopefully with this compact passed, that it is our job to inform people. We may be informing them to vote no and that is fine. We may be informing them to vote for the compact, but I think it is really important that we all take seriously our charge to educate the people in terms of what the choices are and allow them an opportunity to vote. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: In a follow-up to Representative Gooley's answer to Representative Clukey's question, the possibility of being able to do more clear-cutting, that is true, but in reality it won't happen because right now, of those 15 major paper companies, there are only eight that are major players in using clear-cuts. Therefore, if we put this into effect from the 250 down to 75, it will reduce the clear-cuts that are now being done because all that are available to do it aren't using it. It would, in effect, reduce the clear-cuts because they all aren't using that practice at this time.

I would just like to follow up a little bit more in saying as House Chairman of the committee, I can say that I am very proud of the work that the whole committee did during this whole process. You have heard about the three days of hearings and then we came to two intensive days of workshops, it didn't matter what political side you were on, we dug into the ingredients of that bill and we tore it apart and I think the committee did their work and we were supposed to put the best document before the people of the State of Maine, if we so vote to do so, but if we do vote, it is our responsibility to see that the best package is out there. I really feel, whether you believe this is the right thing politically to do or not, I believe that this compact is the best that we could get at this time. We must remember that there were a lot of players involved in this from a broad perspective from business, the environment and all that is in between.

I think we have to look at the big picture. We are holding up, I believe, the economy of this state by delaying this any longer. We heard there are a lot of people, not only the paper companies, but anybody connected with the forest industry saying they do not dare to make investments now, because of the uncertainty that is out there. We need to make some decisions and move ahead. I think, from what I hear, that the people of the State of Maine are looking at us for information. There has been a public process. We listened to the public through the hearings. We went and we made some decisions and now they are going to be looking at us as we move forward. I know during the course of the hearings

that we did hear that if this does pass that there will be major commitments from a whole list of organizations that were passed out here the other day. You see all the people that are supporting this through the organizations, individuals, companies and whatever. I believe that everybody is committed to educating the public so that when everybody goes into the voting booth in November, everybody can give an educated vote. With that, I think it is the right thing for us to do to pass this compact. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative DiPietro.

Representative DiPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I just have an apology to make. I understand that I am not supposed to have any conversation if I am going to move the question. Mr. Speaker, I move the question at this time.

The SPEAKER PRO TEM: The Representative is out of order.

The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Members of the House: Earlier, I want to make it clear my feeling on the initiated bill, the referendum. Representative Strout made the statement that there is no way the Legislature will correct the initiated bill. My feeling is that that bill would need some changes to be workable, even if you believe in it explicitly. If I were here, I would support changes. I believe the Legislature would be derelict in its duty if it did not make changes in it. With that said, I want to respond to a couple of the other things that have been said here.

It has been suggested that we have been talking about this for three or four months and there have been all these hearings, but we have only had the details of the bill for three weeks unless you were in on the deal. Many members of this body have not had any details for more than two weeks when the bill was printed. Everything else prior to that, unless you were in on the deal, was pretty confidential. With regard to the question about whether there could be more clear-cutting or not than current law, actually, you could probably clear-cut more under current law, but the theoretical maximum of 384,000 acres that Representative Gooley mentioned is certainly greater than the current annual cuts that he and others have cited at around 40,000 or 50,000 acres. With the new standards, for designating what is not a clear-cut, there probably actually would be more acres that are being cut at that. So, it probably would be safe to say that the theoretical maximum is at least four times more than the current cut to the new standards.

I am glad that Representative Kilkelly mentioned the five-foot trees because that really is another way to deal with the issue of whether you have a clear-cut or not. This leads me to the question of perception. There is a lot of perceptions being put out here that this bill is going to take care of the problem that people see in the woods. The perception is being put out here that this bill is based on science. I think that we, just from the discussion we had last night, we can see that this bill is really not based on science, but is based on political expediency. It was created with the express purpose of defeating the referendum. It was not created with long-term sustainable forests in mind. I believe it is as one-dimensional a solution to

a three-dimensional problem as the proposed initiated bill.

People are being told, this bill is being promoted, that this bill is based on science and it is going to make a difference in what our forests look like. Now, again, it is more political schemes. Last night I proposed an amendment that would have raised the stocking standards to reflect the different kind of stands, softwood and mixed wood stands. Representative Gooley noted that, in fact, the current proposal is close to an understocked level. The handout he has on basal areas is a very informative document. The proposed standard in the bill, which everybody is bragging about is 50 percent more residual stocking to avoid being a clear-cutting than current law. If you look at that 45, you find that he lists, for white pine, spruce and fir, 90 basal area. Well, we are dealing with 45. So, the 45 proposed is about half of what an understocked stand is. For hemlock, he notes 100 constitutes an understocked stand. For hardwood, about 60 as an understocked stand. This proposal is about three-quarters of that. He does note that sometimes understocking is good practice, good forestry. He has an example of that. I believe that is probably true, but my concern is that so often minimum standards that we put in place become maximum standards that people work to. So that by putting this as the minimum, we will probably find that that will be the maximum to which people will go to work on.

I think the clearest indication of the political expediency of this measure is Representative Spear's comments last night. They had a lot of comments at the hearing and really 45 basal area is the most that we could go here, because it just couldn't be supported. I think we should be honest. The Legislature cannot enact a bill based on silvicultural basis. It is going to be politically expedient. This gets into another issue of perception that this bill is going to make a difference in what the forests are like. Setting aside the question of whether clear-cuts are good for wildlife or not good for wildlife. I think the perception that is being put out here is that somehow the forests are going to look different from the change in the maximum number of acres that someone can clear-cut and from the change in the separation zones between clear-cuts.

The question I asked myself when I got the bill was will it really make a difference in the way it looks? It certainly is what is being suggested. I sat down with graph paper and taking the one-to-one ratio that is in the bill, I determined that for clear-cuts between five acres (anything under five acres is not considered a clear-cut in current law or in the new bill) to eight and a third acres, there will actually be less buffer area with the one-to-one ratio than the current law. For eight and a quarter or eight and a third to 35 acres with a one-to-one ratio buffer, there will be more buffer area. From 35 to 75 acres, there will be less buffer area because right now that section needs to have a one and a half to one basis.

If you actually plot out on graph paper a series of clear-cuts that meet the current standards and compare it to a series of clear-cuts that meet the new standards, from a distance of a couple feet here on this little drawing, you can't really see that there is any significant difference. There is

another ringer in this and that is the forest service is proposing rules that establish minimum distance width of buffer areas. It appears that they actually would require somewhat more buffer areas than the one-to-one ratio. It is uncertain to me as to what will ultimately come out between the rulemaking and the Legislature, but even given the skimpy parts of the guidelines that they had in that comparison, it appears that there will be very little apparent change in what the forest looks like.

I am not saying we should base everything on what the forest looks like what I am saying is that for the supporters of this bill to promote it with that idea and suggest to people that they should vote for this because it will make a difference in what the forest looks like, is being really deceptive. Anybody can see my little sketches if they want to later on. I would be happy to show them to you. I started thinking about that, the dimensions and so forth and thinking, will this really make a difference? I don't believe it will. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I just want to make sure that we understand Representative Clukey's question. It isn't theoretical. It is actual. You cannot cut more than 384,000 acres today, if we pass the compact. Under the present law, you can cut as much as you want to clear-cut. That isn't theoretical, that is fact. There is no limit, whatsoever, except the limit of the criteria of the separation zone. You can clear-cut what you want to clear-cut.

The other point that I want to make is that theoretically if you go up to 384,000 acres, it isn't theoretical at all. You have to meet certain criteria to get 75 percent more of that cut. That is criteria that you have to meet to get that, costs you from \$200 to \$300 an acre to do so, which is relatively expensive forest practices. Also, it requires for you to get up to 1 percent of your total land area that you do not use chemical methods. All I have heard from many people is that they would love to cut down chemical methods. Here we are getting an incentive, which all of us say we like to do, if you want to go beyond .25 percent to 1 percent, you have to use good forest practices to that.

To repeat, there is no limit right now under the Forest Practices Act, except the separation zone. There is a limit of 384,000 acres under the compact, but much of that can only be done if you utilize outstanding forest practices. Mr. Speaker, I do wish to apologize to the Representative from Kennebunk, Representative Libby because I had told him this morning that I wasn't going to get up and say anything.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add in a very, very important point, these caps on the clear-cutting. It was mentioned about the 384,000 acres, which is a theoretical cap. That was under the Forest Practices Act. With that theoretical cap, in actuality, in 1985, 39,000 acres were clear-cut. That shows how the amount of clear-cutting is going down drastically all the time. Under the theoretical state-wide maximum for the compact, these caps would be, it totals up to 170,000 acres, which includes 42,500 acres per year for the amount of one quarter

of one percent of the total ownership within a given ownership. An additional 127,500 acres per year which is the amount which would have to be thinning and planting that would go along with that.

I think we see here that even though we have these maximum caps, that the actual amount of clear-cutting is much, much less, about 90 percent less. Now, while I have the floor, I would just like to say that I am a tree farmer, myself, I own 350 acres in Farmington and Phillips. I am also a member of Small Woodland Owners Association. I am a consultant forester. I did go to that same SWOM meeting over in Lovell last week that others did attend. While no poll was taken of the members there, I thought the majority of those people and they did have a directors meeting after the meeting and they voted to support the compact. Having said that, I heard Roger Milligan, president of a company in eastern Maine, say last week, that we need to have a program that people will be happy with. I heard others last week say that the compact is about compromise. I heard others say there is no right answer to the forestry issue. Lastly, I heard the Governor say that status quo is unacceptable. A few other things that I heard also is that the compact is a consensus document that works in the best interest of the State of Maine and this is what Dana Connors said last week at these hearings that some of us went to.

Don McNeil, President of Great Northern Paper, said, "The compact allows foresters to make choices for the land. The Green Party Referendum does not." This is something that, I think, Representative Lumbr brought up earlier, in that the Green Party Referendum would take the science out of forestry, but the compact would allow foresters to make choices on the land. I have heard legislators and others say that this compact is a political solution. It is a taking. The value of woodland has decreased. It ignores property rights or let's get some real data to make intelligent choices or scientific data, not based on emotions. I would just like to point out that over the last 50 years there has been probably 1 billion dollars worth of research in the United States on such things as silvicultural guides for paper birches or uneven edge management in northern hardwoods or silvicultural guides for northern hardwoods, eastern white pine, today and tomorrow, a symposium in 1985 on the silvicultural guide for spruce and fir in the northeast. There are all kinds of research that has been done.

I heard somebody say that our forefathers never intended controls such as we have today. I heard the Governor say that status quo is unacceptable. We have controls in everything today. My main experience over the last 40 years all over Maine and I had a career with the State of Maine, I say that the Maine forests are renewable. It takes roughly 40 to 80 years to grow a forest to maturity. I have seen excellent forest management. I have seen cut the best and leave the rest. I have seen the quick-buck artist. I have seen massive blow down in mature stands in the big woods. I have seen small woodlots and off-shore islands where there have been massive blowdowns. Also, insect and disease problems where millions of trees were lost. An example of that would be the spruce budworm and the birch dieback. Nobody ever mentions the birch dieback, but back in the 40s and 50s there were millions of cords of valuable hardwood that was lost because of the birch dieback. Now the Green Party Referendum or

Clear-cut referendum is not the answer. Some clear-cutting is good wildlife. A stand conversion to a more desirable species and salvage of dead and dying forest areas. Also, the Green Party Referendum calls for the removal of only one-third of the volume in 15 years. This takes the science out of forestry. It also calls for maintaining age classes. I don't know if that means 100-year-old trees or 200-year-old trees. You would have to maintain them at that level or you would have to maintain the tree diameters. What if it is over mature? The species composition, if it is all poplar, you would have to maintain poplar. This was not a well thought out decision to include these things in the Green Party Referendum.

The Maine citizens understand why this referendum is bad for Maine, including the 1.3 billion dollars in reduced business and the over 15,000 jobs that would be lost. I was not in favor of a special session. I read over the compact, but I knew the small woodland owners were not part of the discussion. I wasn't turned off by the compact and realized what a tremendous effort and give and take took place to arrive at this agreement. Now there is an agreement among large, medium and small owners. I would like to say that I thought the Natural Resources Council came out with a really good summary of this compact, also, SWOM and SAM and industry. The Governor's competing measure gives Maine citizens another option and it is a good option. It has something for everyone concerned. It is kind of like, a bird in the hand is worth two in the bush, I guess.

Because of the timing of the compact, there has not been enough time to do the educational effort on behalf of the state and private interest. My final analysis, I believe, there is better forestry management ahead and the compact is that mechanism for an improved long-range approach for a sustained forest. A big educational effort must be done before voting day in November to show Maine citizens why they should vote for the compact or as the Governor says, "2B for ME." It will be the people's choice. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative WINSOR: Thank you. Representative Spear, it is my understanding that if one takes a piece of forest land out of forest production and converts its use to another use, the provisions of this bill do not apply? Is my understanding correct?

The SPEAKER PRO TEM: The Representative from Norway, Representative Winsor has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Men and Women of the House: Yes, that is true.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: I am wondering if Representative Spear could confirm my understanding that if I have a 200-acre woodlot, for example, and I wish to convert it to residential housing and in that process I would remove trees and technically might create a subdivision. Is it the understanding of the

sponsors of this bill, that I would have to meet the rules that are being proposed under this compact?

The SPEAKER PRO TEM: The Representative from Norway, Representative Winsor has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Men and Women of the House: In response to that question, if it is a change of use, such as a subdivision, you get your subdivision approval, then you can cut what you need to cut.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Men and Women of the House: Representative Spear, if I wanted to convert an existing woodland back to fields or, for example, maybe take the land and convert it for agricultural use for the harvesting of blueberries or perhaps cranberries, would that run me into a problem with this compact?

The SPEAKER PRO TEM: The Representative from Norway, Representative Winsor has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: No, it would not.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Men and Women of the House: I really appreciate the opportunity to ask these questions and to clarify it. I certainly think it is an important part of the record here. If anybody has different understandings, I would appreciate them bringing them up. However, this morning I did receive a message from the selectmen of the Town of Waterford. It was interesting, I didn't realize it was in my district. I just did a count and 12 percent of the entire registered foresters that are located in Oxford, Androscoggin and Cumberland Counties are residents of my district. It is very interesting to me that I have heard absolutely nothing from them to indicate that they see a major problem in forestry management, nor do they support this. I did receive one comment from one forester whose observation of the compact was that it was a forester employment bill. With that logic, perhaps I should support it because I think I support creating jobs. However, the selectmen from the Town of Waterford did write a very nice letter and it seems to reflect the sense of the people who have contacted me in my district and also my own particular belief.

If you will give me 30 seconds, I will take some of the words out of that letter. It says, "The selectmen from the Town of Waterford do not support the Green Party Initiated Referendum. We do not support the compromise alternative put forth by Governor King. Neither proposal is really about clear-cutting. Neither proposal will help promote good forest management. Both proposals are takings, which will erode and diminish landowners rights and land value. Just because some representatives of large corporate landowners are willing to bargain away their companies' ownership rights in an appeasement attempt, does not mean that all landowners in Maine are willing to have their landowner rights diminished in the same fashion. Many of the parties involved in these appeasement

attempts are not true landowners, but are merely representatives of large landowners. They may have a proprietary interest in the operation of the company, but they did not purchase the land. They do not pay taxes on the land and will not suffer any personal monetary loss in the devaluation of the land. Their involvement in these lands is their job, not their savings, not their equity, nor their future to be handed down to their children. The Wilderness Society, the Audubon Society, the Natural Resources Council of Maine, the Sierra Club, all talk about the public right and the respect to private property to acquaint themselves with the trespass law. All forest land that is harvested in any fashion reverts to forest land rapidly, providing varied habitat to wildlife, jobs, forest fire protection and so on. For these reasons and the many others too detailed to cover here concerning silviculture, regeneration, and so on, we do not support these proposals of the Green Party and of Governor King. We do support landowner rights."

It is interesting and the reason I pause and respect this opinion fairly well is that the three selectmen, one is a licensed forester who apparently manages about 30,000 acres in and around my district. The other is a third or fourth generation apple farmer who has a couple thousand acres in my district under tillage. The other is a property developer and experienced real estate broker who I respect.

Ladies and gentlemen, I just thank you for your patience and I thank you very much Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: In indifference to the Good Representative from South Portland, I know what he was getting at. We have been here two hours. I promise to not only be as expeditious as possible in my remarks, but also add some new perspective on this issue. However long the debate is in here and however uncomfortable it may be in here and however much I may gripe about being in here from day to day, there never is a day that I don't, at the end of day, feel privileged to be a member of the legislative body. I hope I have a sense of how far we have come and how important it is that we have come to this point as a representative body.

Two years ago, I had the privilege also of going to Ireland. On the way, I stopped in London. I was lucky enough to be given access to the parliament building, not the parliament we are familiar with, but the original parliament building in London. I had a great sense also in that large and dark building because that is where it began. That is where representative government that has come over the century started. In those days, ladies and gentlemen, the aristocracy that was called into that building did not debate. They did not deliberate. They did not have any give and take. The king at that time called them in simply to give their consent to whatever his policy was. Then it could have the impact upon law of the realm. They were, in effect, rubber stamps. In fact, that is where that term comes from.

We have moved a long ways from that, but I have a real concern about how this particular compact came before this particular Legislature. It seems to me that now we have a new process and we are initiating or building upon a new precedent whereas without

regular deliberation and the regular legislative process, we are essentially being asked anyway you cut it to rubber-stamp a measure produced initially outside of the process, not in the regular constitutional way. Then we are urged to vote it up or down by the present executive or "King," if you will. I have a real problem with that. I believe it is another step in a long political development that stretches over this century with a proper role of the Legislature, which is the people's body, more than the other two branches. It is constantly being diminished. That is a very big issue. Someone mentioned earlier that there is a bigger issue here than the compact itself. Where I come from, that is the particular issue. I think you should think long and hard about that as well and then vote anyway you want as long as you keep faith in your own hearts with the people.

I also have a problem with the way we are putting a competing measure on the ballot. Whether you agree or disagree with the so-called Green Referendum, I personally have problems with it. We are undermining the present referendum process by what we do, anyway you cut it. We should also think long and hard about that. What does it say when citizens, whatever their issue, go out and go through all the work and all the sweat and all the toil and get over 50,000 signatures and then low and behold you have an outside group that comes in and presents to the Legislature and we put our competing measure on outside of the process. What does that say about the process of democracy?

I have talked to a number of people on the street about this, not special interests in Westbrook and Westbrook has a real concern in this. Westbrook has a concern not only with jobs, but we care about the environment also. I have not talked to a single person that supports putting this competing measure on the ballot. Not one. It is a unanimous vote, so to speak, in the convenience stores and filling stations. What they are saying to me is they want to vote it up or down. This has been out there for months and months and in the eleventh hour or last two months, we are putting a competing ballot issue on that they are supposed to vote from. They believe that it is confusing. I have heard them say that over and over again. We have heard for months and months that the problem with the Green Referendum was it had three pages of extra stuff in it that people have to vote on rather than clear-cutting up and down.

In our wisdom, we are going to give them 23 pages. I do not believe it is demeaning to the public to say that it is confusing because all of the public I have talked to has said that. I have heard it also said that we must educate the public to how good this is. How many of us here seriously, in our deepest heart, understand fully this measure before us? The questions on the floor indicate some of the depth of that problem. It struck me that I could stand up today and make a property rights argument and sit down again and stand up and make an environmental argument from both directions against this particular bill and that tells you some problems with it right there. I have often heard in here that if everybody is uncomfortable with something than it is a good compromise. When everybody is uncomfortable with something, maybe it isn't so good. I have heard it said from the good Representative Strout, I am glad he is here. He may recall, I think it was three sessions back, when we had another bill on the budget and if we didn't vote

the budget, at that particular point and that particular hour, the world would end as we knew it. There would never be another comparable budget come up and I said then that we were not the "Last Chance Saloon." We are not going to blow out the lights and there won't be another vote. That is part of the process we have and work with. There is always another vote and there is always another session.

I have some trust with the people too. We have had a lot of talk about trust. I have the trust that they would trust us and we would come back and do this thing right, instead of putting the cart before the horse, all the implementation stuff, at this point. Come in in another session and do it right. The good Representative also said there is no guarantee. That is true. There is no guarantee that his scenario works out any more than any other individual in this particular building. If you have real trust in the people, listen to the people, allow them to vote this thing up or down and then come in in a later session and do our business the way we should do our business.

I apologize. I am up here because I am not teaching and lecturing. I don't want to verge into it, but it gave me a chance to give a short lecture here. I apologize to you for that. Just remember that there is a key issue here besides this particular compact. That is the integrity of our form of government and that cannot be taken lightly. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Boothbay, Representative Heino.

Representative HEINO: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative HEINO: Thank you. This morning it has been stated that paper companies, perhaps not all, but many, are kind of on hold for future investments because of the uncertainty of this and the other body. I would direct my question to anyone who would like to answer it. Who are the paper companies? How large are these investments that they are holding because of the uncertainty? How does that relate to jobs? Should we pass the compact?

The SPEAKER PRO TEM: The Representative from Boothbay, Representative Heino has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House: In response to the question. I have businesses in my community that have told me there would be no growth. They are not paper companies. I know of paper companies that have said that. They would hold investments. I have a small company, it employs 90 people, their growth has been on hold for the past year and he is looking at another year before there is any additional investment in that plan. There are questions from out-of-state interests. His customers are concerned of where their supply is going to come from. The other businesses that are affected, other than large paper industries, are equipment dealers that are working in the woods, skidder dealer, chain saw sales, basically everything is affected. I am not going to comment on which paper companies are withholding investments at this time. I know that International Paper has proceeded with investments in Jay. It has been helpful to the area economy. They are investing in

the local business. I think if we move the compact, then we can proceed. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bucksport, Representative Bigl.

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take a little different track with you. So, very quickly, I would like to take up four or five things with you. A little lead-in to establish my credibility. When you look at solving a problem, you make sure you identify the right problem. I want to talk a little bit about risk, then I want to paint a kind of a high-risk scheme for you. To establish my credibility, my father was a wood handler for the Brown Paper Company in New Hampshire for many years. I spent a lot of time in the woods. I worked for Great Northern. I worked for Champion. I have spent a lot of time in the woods. As a matter of fact, what really establishes my credibility is I had the golden opportunity when I was working for Great Northern, to go to breakfast with a bunch of wood harvesters and sit alongside, of course, I was sat there on purpose, one of the lumberjacks that hadn't taken a bath in 32 years.

I like to go to problem solving. When you come to a problem, you try to ask if this is the real problem or is this a symptom or is there anything else really contributing to this? As we look at what we are dealing with today, we have some contributing factors. That is called credibility. Those are real factors. We have two types of credibility at issue, credibility of ourselves as a government and institution, credibility of the large paper companies or large forest owners. That is why we are here. There is enough people in the State of Maine who don't trust us that pushed us where we are right now.

How do we deal with that credibility? It takes a lot of risk to do that. There is no magic wand that says, you trust me, you will trust me in the morning and all that stuff. There is no magic wand. There is no words that is going to establish that for us. The only thing that establishes credibility is action. Actions that can be seen. There is a lot of risk when we take action. We have to stick our necks out a little bit. For that snail to move along, that neck has to come out or otherwise he just sits there surrounded by his shell and just gets hammered on.

I would like to paint a high-risk scene for you. The compact, I am told right now that we have a group of people that are in favor of the compact. If we don't do it now, it is going to fall apart. That sort of makes me ask the question, where is the credibility? Why are we even working on this when it is not a credible thing? We are just sitting here making games with it. If this group really believes that this is a good thing to do, why don't they just go ahead and do it? A couple paper companies said to me that we could end up like this on January 1. Go do it. The first step in establishing credibility for the large landowners is to stick their necks out. We will do this.

Let's look at ourselves. We did something last year that I thought was pretty great. We said to the fishing industry, specifically the lobstermen, manage your ourselves. We will give you a framework to act on, but we will let you manage it. We have confidence in you. Now what we have to do ourselves is we have to look at the large landowners in the state and we have to say, you manage it. You have a

framework to start off with. You said you wanted this thing. Go ahead and do it. What do we have to do? We have to stick our necks out and look at the people in the State of Maine and say, look, they have made the first move to establish credibility and to bring our forests the way we like to see it. I, as a Representative, would be very glad to speak anywhere in the state and say the second move now is on my part, to back them up and say, they are going to do it. We are going to make sure they are going to do it. I will call the CEOs. I will put their feet to the fire and hope that I get elected next time. I will be back here if they don't do things right.

We have to go out and tell the people in the State of Maine, here is what is happening now. Give us a couple of years to have a look at what is happening with the Governor's compact. Turn down the initiative. Let's give it a couple of years and see what happens with the Governor's compact and in the meantime we will be learning more about how we can trim this up. This is a high-risk situation. It takes guts on our part. It takes guts on the part of the large landowner. It also gets to the root of the major problems surrounding all of this and that is our credibility. What I am suggesting right now is that we just say to the folks out there, go ahead and do it. We will monitor you and we will report to the people of the State of Maine. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: I rise to respond to the question that was asked by Representative Heino. I am sorry that he left the chamber. My mill is one of the mills that is on hold. We employ about 300 people. They were planning to put in a new paper machine that would employ another 300 people. That would also employ a lot of people in the building process. We manufacture a special kind of paper. It is not something that is done by any other mill in Maine. In fact, we used to be the only mill in North America that manufactured this kind of paper. Other mills haven't taken on that job and they are on hold because of this referendum because of what we are doing here today. Perhaps by the time we get done making whatever kind of a decision we are going to make, it is going to be too late for them to expand. They had full intentions. They have gone through all the DEP process and had many plans for expansion that would double the labor force in my community of Madison. It may be too late when we get done with this. I hope that it won't be. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative DiPietro. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative DiPIETRO: Thank you Mr. Speaker. I move the question.

Representative DiPIETRO of South Portland moved the previous question.

A vote of one-third of the members present necessary, on motion, "Shall the main question be put now?"

Representative JOY of Crystal requested a roll call on the motion: Shall the main question be put now?

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the

expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: With all due respect to the good Representative from South Portland, it is the first time the good Representative wanted to move the question. He had already spoken. Granted it was brief, but he did get in a few remarks and then to say that he would like to move the question.

The SPEAKER PRO TEM: Would the Representative from Penobscot please defer.

Representative LUTHER of Mexico requested a point of order on five minute debate.

The Chair ruled, pursuant to House Rule 28, that any member could debate for five minutes, shall the main question be put now.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Thank you. I just want to be clear. In all due respect to the good Representative, he did get in his remarks and before he wanted to move the question. I kind of thought that was a little bit unfair. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I appreciate the impatience, the temperature of this building and the fact that in some districts this is not an issue that is perceived as being such economic consequences as some others. I think in this instance, we need to defer to those members who still wish an opportunity to speak or to ask questions that need to be recorded with an answer. It is an important precedent to allow those members who have an opinion to express it and to allow those who have a question to ask to ask and get an answer. I hope that when the vote is taken that we vote down the matter of moving the question or proceeding directly to the vote. I think it is critical that at this point in time we allow the debate to continue. This is a very far reaching issue. I think a lot of folks have heard a lot from their constituents and they need to record that matter here before the Legislature. I urge you very, very strongly to allow the members to continue to debate and discuss this issue. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: As long as I have been a member of this body, I have never supported the previous question. In all due respect to the Representative from South Portland, he can do what I have done for part of the morning and that is to go out in the hall and wait. That is possible for all of us, but I do think we have to give everyone the opportunity to speak. I certainly hope that you will vote against moving the previous question at this time.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: I also urge you to vote against

this pending motion. I realize and have realized from my first term when I made a similar motion and it brought the House to a standstill that I was wrong in making such a motion. I made that motion because of the common usage in town meetings. However, as long as there are serious issues being discussed and we aren't engaged in filibustering, which I am sure we are not, I think it sets a dangerous precedent for us to shut off discussion as long as people have serious things to say. I can't urge you enough to vote against this motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I concur with my colleagues in the opposite corner. I know that we are tired. We have worked very, very hard, but I think it is important to give every duly elected Representative an opportunity to debate an issue as important as this. I must admit, however, that this bill will be back to us later. It will come back for enactment. I hope that we are not planning to repeat the same comments. Having urged you to vote against the question, I would also encourage those of you who must debate it to remember that it will be back and I hope you won't make the same speech twice.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Thank you Mr. Speaker. I had hoped to speak. I hope that we defeat the issue that is before us at this time. However, I would like to listen to many speakers before I take that opportunity. I am reminded that being an educator that in 1800s, I believe it was 1839, a British writer and philosopher said these words, "In our deliberations over laws, which will become law of the land and laws of our country. If we don't question these laws and find answers to these questions, then these laws will never be valued to our country." Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Men and Women of the House: I join the chorus of people opposing moving the question. As was heard in the debate today, there are a lot of people who didn't think that members of the public had adequate access to this process and influence on it. To shut off debate at this time would only go to further the cynicism of this process and help make this bill more difficult in the end to come to a consensus agreement. I urge you to vote against the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Men and Women of the House: At the risk of being accused of not caring about the information that goes on the floor here, I have not spoken at all today on the issue. I have probably as much or more to say than a lot of you. I am deferring the things I have to say until it comes back here again. Some of us have another life and we need to get out of here tonight. This still has to go to the Senate. I don't know how many times, this is only the first round. That is the reason I will be supporting this motion to try to move this thing along. However it comes out, it comes out. We need to move this along. We are into

the middle of our second day now. Some people have already had to leave. Some people can't be here this weekend. This is very important. We will have another chance. This is not the end of the world if we move this along at this point. Therefore, I will be supporting the motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: I will not be supporting the pending motion. I think that the argument to move things along tends to obscure the fact that when you do move things along you lose people's ability to make comments. You have shut off one opportunity. Later on people feel, well, this is not going to make any difference anyway, so I am not going to bother to say anything. I think with all due respect to the Representative from Rumford that that is a deleterious effect from just moving things along.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is moving the previous question. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 406

YEA - Birney, Cameron, Carr, DiPietro, Driscoll, Fisher, Gamache, Green, Hartnett, Johnson, Joyce, Joyner, Keane, Kilkelly, Lemont, Libby JL; Lovett, Luther, Marvin, Paul, Pendleton, Plowman, Pouliot, Povich, Reed, W.; Saxl, J.; Stone, Treat, Tripp, Vigue, Watson.

NAY - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Buck, Bunker, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Donnelly, Dore, Dunn, Etnier, Farnum, Fitzpatrick, Gates, Gerry, Gooley, Gould, Greenlaw, Guerrette, Hatch, Heesch, Heino, Hichborn, Jacques, Jones, K.; Jones, S.; Joseph, Joy, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemke, Libby JD; Lindahl, Look, Lumbra, Madore, Marshall, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, O'Neal, Ott, Peavey, Perkins, Pinkham, Poirier, Richard, Richardson, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Strout, Taylor, Thompson, Townsend, True, Tufts, Tuttle, Tyler, Volenik, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Cloutier, Dexter, Gieringer, Kerr, Poulin, Reed, G.; Rice, Truman, Underwood, The Speaker.

Yes, 31; No, 109; Absent, 10; Excused, 0.

31 having voted in the affirmative and 109 voted in the negative, with 10 being absent, the motion: Shall the main question be put now, was not accepted.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Men and Women of the House: It worked. Everybody is in here again. Thank you. I will try not to repeat anything. I have been here the whole time and there has been very little repeating. I do need to say something about some of the remarks that were made in here the last discussion regarding the fact that the companies are withholding purchasing and so forth waiting for the outcome of our decision on the compact. I have talked with the Green Party people. They say that if this compact passes and they think

it was because of them going down in November, they are going to come up with another initiative anyway. This really isn't, in my opinion, going to placate those people and get them moving, if we pass this. They are still going to wait until November and see what happens.

There has been talk about credibility recently. I heard that a lot from my people. The implication, again, is if we can pass a choice for these people it will show credibility. It will show credibility of the big landowners. If somebody went to some of these hearings, the more I heard from some of the larger landholders, the less credible I thought they were. They would be more credible to me if they came right out and said, okay, this compact is for one major reason and it is to stop the clear-cut ban. They don't. They were going all around trying to say that this would allow them to practice sustainable forestry. Well, the question came up, of course, why don't you know and aren't you now and all of these things. To me, the current bill is getting fractured anyway. There are a lot of things that have come together to bring us here to this whole mess that had to do with spruce worms, in my opinion, the oil prices that brought us into building those slash burners. It isn't just the paper companies. The slash burners when they come on line, they got tax credits for building them. We were told that all they were going to do is burn the trash and brush. We knew better. Look, the collapse of the ground fishery had something to do with it. There it goes, the credibility of the big industries again.

One of the biggest reasons is access. The timber companies opened up their land to the people and the people wanted to get in there and they say, "Oh no, look what you have been doing for 75 years. That is terrible, we have to shut you down. One of the biggest reasons, in my opinion, that we are here in this mess is because most people today live so far from natural resources. They are three or four generations from having anything to do with their livelihoods being based on natural resources. The further you get from that, the easier it is to look at something and say that is terrible, let's ban it. One of the things I do for a living is I dig ponds. I have a big excavator. I will tell you, it doesn't look very pretty when I am digging them. Somebody might come by and say we have to ban that. What I have to do is show them what it looks like a year later. That is where the timber companies have failed. They have failed to show us before and after. I am sure they got the wake-up call on that.

Now we come to the people who have the initiative, because of all these factors. They got the 55,000 people to sign. I stayed at one of the polling places in one of the largest towns in my district and watched them for about three hours signing the petition. Not to denigrate the petition signers at all. We all do it. So many of them would come out and say, "What do we have here?" I talked with them a lot since then and they have told me they did not know what they were signing. We haven't issued a process. Maybe it needs a little refining. We talked about the sky will fall if the ban clear-cut passes. I don't believe that. I am not a "sky-faller" kind of guy. Two months later, I don't think within that two months the major companies are going to move out. I think normally, no one would want to tamper with an initiative passed bill, but if there are drastic measures in here, I certainly would be

willing to try to make changes. In fact, some of the leading ban people at a hearing the other night in Ellsworth said that they already would like to see some changes in their own bill.

As far as clear-cutting itself is, my experience having some land, you can't keep trees from growing in Maine. It isn't a matter of worrying about them growing. You can't keep them from growing unless you spray. The clear-cutting, obviously, we hear a lot about wildlife. Obviously, we have a tremendous moose heard today. We kind of ignore that. We say, we have a moose heard until somebody runs into one, we ignore it. It is a tremendous asset. That is a direct result of clear-cutting. I tried to get on the compact, it was a result of a lot of hard work. It has left us in a bit of a hostage situation. To me, it is very similar to a few years ago when people got a petition to close down Maine Yankee. What if the chief executive and the Legislature had come in two months before that and kind of panicked and said, we have to stop that. Maybe they will accept if we shut down three days a week. People who want ransom are never satisfied. If we do this, you can't satisfy them that way. It has been said before that it makes a mockery of the initiative process.

It has been talked about that we have to produce an alternative for people. We already have an alternative. We have the Forest Practices Act of 1989. This isn't perfect. Obviously it needs some changes. Let's make some changes. Let's make some changes in January. We also hear that that is not being enforced. How on earth is this compact going to be enforced? I am very concerned with certain aspects of the forest. One is the liquidation sale, the use of herbicides, the fresh water, the fisheries and the warming of the water, but let's take it up when we come back. Those of us who do come back in January.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Mr. Speaker, Men and Women of the House: Well, what a difference a year makes. If you can remember a first session, I introduced a bill, L.D. 1347 that had some amendments to the Forest Practices Act, but that bill did not make it through this chamber. I saw the intense lobbying that happened against that bill. We are here today because the citizens of Maine said that they are are concerned about forestry in this state. We are not happy with the status quo. I don't think anyone is in this chamber. They have proposed a referendum that is on the ballot. We are here today to debate a compact that has been put before us by several parties.

I just want to say a few things. Having studied the Forest Practices Act in its current state and my wife worked on it intensively when she was working at the Maine Audubon back in 1989, with several members of this body. We have been talking about this for the last several months. The Forest Practices Act has some wonderful language in it. Unfortunately, the rules that were adopted did not get us to sustainable forests, which I think is the goal of all of us in this chamber and most people in this state. Therefore, the Forest Practices Act, as stands, is just a very small step forward to getting us to sustainable forestry. Having looked at the reality of the situation, the bill I introduced, again, we worked hard on it and a lot of people turned out for the hearings, but did not make it through this

chamber. I know how difficult it is to get a forestry compact or changes through the Legislature. Therefore, though this compact, I also believe, is only a modest step forward, looking at the political reality, I think the referendum probably will not pass. Therefore, what do we do? We can have the opportunity to put the compact on and perhaps the voters will choose that and that will be a step forward or we do not put the compact out, the referendum goes down and then I am worried that the debate is ceased for several years to come.

The spotlight is on forestry now in Maine. Now, I think, is the time to try and give the voters an alternative that, I think, will make a step forward in the right direction. Not as far as I would like to go, but, again, it is very difficult to try and get something through here. I am going to be supporting this for those reasons of trying to make another step forward. I am concerned that it will shut down debate once it is enacted. However, I talked to several people involved. We have the liquidation piece. The rules would be coming back to us. There are some opportunities for us to improve the Forest Practices Act. I hope we will take that opportunity. Therefore, I will be supporting the compact and urge the members to do so. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to take this opportunity to thank all the members of the two committees who traveled around the state and conducted the hearings in the three locations that they did and for all of the work that the Agricultural Committee put on after they came back. However, they were sent out to do this on somebody else's political errand, not through a measure that came through this body. I wonder just how many legislators in this building, if they were put in a room, all alone, given 10 questions on this compact, that we have discussed for hours and hours, would come up with the same answers. I don't think that they would.

We are told that we have a 23-page document in front of us. I hope that by now everybody is aware that we have a 23-page document with a Committee Amendment of 20 pages, which does not replace the original bill. We also have several other amendments, which have been added to this bill. Not to inflate the ego of the good Representative from Waterville, but I would like to point out yesterday when your amendment was placed on the floor of this House and received such a tremendous amount of support, if that one single page were the entire document in front of it, we would have sustainable forests. I think that needs to be given a lot of thought about that message. To maintain a cold-water fishery in this state, we must have sustainable forests. We could build on that one little item. I commend you, sir, on that amendment.

To go a little bit farther, I had two discussions yesterday about takings with two attorneys. The reason that we are not hearing too much about a takings bill is because in the State of Maine, takings is defined as the loss of 100 percent of the property value. Think of that. If somebody out there does something which depreciates that value or if we pass laws which depreciate the value of your property, a fractional part, there is no takings in the State of Maine. The taking only occurs if there is

percent loss in valuation. Perhaps that is the reason that we really don't go into that end of the discussion.

I would like to point out also how easy it is for misinformation to be taken as gospel. I read one of the newspapers yesterday and the article told of the onset of the spruce bud worm that came in 1974. I think it is very interesting that in 1959, at least two members of this House of Representative were in a lab in Portage working on the spruce budworm project at that particular time. We were flown over the forest area and you could see a line stretching from horizon to horizon and beyond that line were the brown, dead and dying trees. You don't see those pictures being flashed around the state. What you see is the pictures of what happened when they tried to save the fiber from those dead and dying trees and they were called clear-cuts.

I think it is kind of a tragedy and yet we have to think that the people out there who actually work for a living are being handed the short end of the stick with this discussion and this type of legislation that comes before this body. It is a stopgap measure. I am not exactly sure what it is designed to do. It says to give us good forestry practices, but as I indicated earlier, with roughly 180 legislators present, in this building, we would get 180 different answers to any 10 questions you wanted to ask on this bill. I attended the hearing in Presque Isle and I heard hundreds and hundreds of questions asked in the afternoon session. I appreciate the fact that the Agriculture Committee and the Natural Resources Committee had to come back and weed out what they had to try to bring to us. To come back with only six areas, as we reported yesterday, to be covered in their analysis and working of this bill, I think they shortchanged a lot of people.

Mr. Speaker, I would like to give this bill the death it deserves. I think I would like to do it now. I will not ask to move the question. I will move that this bill and all its accompanying papers be indefinitely postponed. Mr. Speaker, I request a roll call.

Representative JOY of Crystal moved that the Bill and all accompanying papers be indefinitely postponed.

The same Representative requested a roll call on his motion to indefinitely postpone the Bill and all accompanying papers.

The SPEAKER PRO TEM: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Men and Women of the House: All of you that voted against moving the question, I hope you keep in mind that this has exactly the same effect, only worse. Those of us who have not spoken that have sat here and listened for three hours and allowed everybody else to expound on their opinions and we have pretty much waited until it comes back for final passage, we have not had our say. This is the worst of the two

possibilities. I ask you to keep that in mind when you vote.

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

Representative JOY: Mr. Speaker, Men and Women of the House: I don't believe that my motion precludes any further discussion. I think that the issues that people might want to raise would be either a reason for or a reason against the indefinite postponement of this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bar Harbor, Representative Jones.

Representative JONES: Mr. Speaker, Men and Women of the House: I admire the work that has been put into this competing measure. I admire the pure intellect and the amendments from the Representative from Wilton, Representative Heeschen. I understand that we are allowed as a Legislature to issue a proper competing measure to the Green Party Referendum. However, I also feel uncomfortable abrogating the right of the citizen petition to stand on its own, fall on its own in November.

Please allow me to quote Supreme Court Justice William Douglas in *Sierra Club vs. Morton*. "The critical question of standing would be simplified and also put neatly in focus if we fashioned the federal rules that allowed environmental issues to be litigated before federal issues or federal courts in the name of the inanimate objects about to be despoiled or defaced or invaded by roads and bulldozers where injury is a subject of public outrage. Contemporary public concern for protecting nature's ecological equilibrium should lead to the conferral of standing upon environmental objects to sue for their own preservation. Inanimate objects are sometimes party to litigation. A ship has the legal personality, a fiction found useful for maritime purposes. A corporation, sole corporation, a creature of ecclesiastical law, is an acceptable adversary and large fortunes ride on its cases. The ordinary corporation is a person for purposes of the adjudicatory process, whether it represents proprietary, spiritual, athletic or charitable causes. So it should be as respect, valleys, alpine meadows, rivers, lakes, estuaries, beaches, ridges, groves of trees, swamp land or even air that feels the destructive pressures of modern technology and modern life. The river, for example, is the living model of all the life it sustains and nourishes. Fish, aquatic insects, otters, fish, deer, elk, bear and all other animals including man who depend on it or who enjoy it for its sight, its sound or its life. The river as plaintiff speaks for the ecological unit of life that is part of it. Those people who have a meaningful relation to that body of water, rather it be a fisherman, a canoeist, a zoologist or a logger, must be able to speak for the values which the river represents and which are threatened with destruction."

I am going to vote against this competing measure and I want it to stand or fall on its own. The Greens deserve that. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Men and Women of the House: I have listened to most of this debate and I have heard several times that we are abrogating or running around the citizen petition measure. One of the reasons I am going to vote for

the compact is that this is one of my concerns and I took the time to read the Maine constitution. I would like to read two sentences to you. It is Article IV, Part Third, Legislative Power, Section 18, Paragraph 2. "Referral to electors unless enacted by the Legislature without change." It describes how the petition comes before you and the number of signatures they have to have. It then goes on to say, "The measure thus proposed, unless enacted without change by the Legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the Legislature and in such a manner that the people can choose between the competing measures or reject both."

I have difficulty understanding how we are, in any way, diverting the procedure by doing this. It says, do this. We have been asked the question, if it came before the full body, would we have a better bill? I ask you to think about that. It came before the full body would we have a better bill? Would we have all the parties buying into this? All admitting that they don't have what they want? I have been thinking about this and maybe I am reading it wrong. I asked myself why those people, those masterful people who wrote the Constitution, put that provision in there. I think I know the answer. We have to be in addition to lawmakers, leaders. When someone comes down the pike with a referendum that is extreme, it is up to us to look at that thing and say, wait a minute, this yes or no is extreme, but it is yes or no. There is a problem. This presents something to the people that is reasonable, rational and lets them decide what they want to do. The people of Maine are smart enough to do that. We have to take on the leadership role. That is what I think we are doing here, if we pass this compromise. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Men and Women of the House: I have a question. There is a motion on the floor to indefinitely postpone the bill and all its accompanying papers. Are we supposed to be debating the compact?

The SPEAKER: You can be debating the bill and why this bill should or should not be indefinitely postponed.

Representative LANE: I have some questions. May I be free to ask the questions.

The SPEAKER: The Representative may continue.

Representative LANE: Thank you. Can anyone on the committee tell me or give me an example of a clear-cut under the current FPA standards? That is one question. I want to summarize them because I know time is short. Do trees grow back and how long do they take? Are clear-cuts beneficial or harmful to wildlife? Are all the current FPA rules in place? I understand from work that there is a problem with funding and we haven't had a chance to fully fund the current FPA rule. Where are we going to get the 168 million dollars that I added up to pay for the compact? Thank you.

The SPEAKER PRO TEM: The Representative from Enfield, Representative Lane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: The issue of wildlife is an interesting issue because it depends on which

wildlife we are talking about. In fact, some creatures, in fact, do very well on clear-cut areas. Some do very well on areas that are regenerating. White-tailed deer, for example, thrive in an area that has been partially regenerated. Moose, for example, we went moose hunting three years ago and found that the area where we were hunting was, in fact, had been very beneficial to moose because it had been clear-cut. Obviously there are other animals that don't, in fact, do as well. It is a question of what kind of wildlife and how you want to look at that.

In terms of the cost of the compact, the greatest cost in the compact, at this point in time, is the amendment that was passed yesterday. It would increase the number of field foresters and it was passed by this body. Up until that time, the cost had been quite minimal.

I'm sorry. Those are the only two questions that I remembered. I was trying to write them down.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: I need to place something on the record on behalf of the people in my area. I have been requested to do so. There is a group called ACCESS, Aroostook County Citizens for Economic Stability and Security. This is just a group of people who are either involved directly in the logging industry or involved indirectly or live in communities that rely very heavily for both the tax base and just to maintain a local economy. They rely on the forest products industry. This particular group contains members, everything from school teachers, to loggers, to homemakers, to the people who own the corner grocery store. They had taken a position to oppose the Green Party Referendum. When there was discussion for a compact, they were intrigued with the idea that it could possibly result in the defeat of the Green Party Referendum, yet, little to none of these people in this particular group who have such a vested interest in what we do here had any part other than now, or those who came to speak at the public hearing in Presque Isle. They had no role to play in the creation of this compact. Consequentially, they got together, in great distress, and they did take a vote. The little group of people who call themselves ACCESS, voted to oppose the compact. They are terrified that their livelihood will be decimated should the Green Party Referendum pass. They are very concerned about that. They are also concerned about some of the elements contained within the compact, the process by which it was developed and the process by which input was taken from the public. I believe those elements have been adequately covered in this discussion, but I felt necessary to place their remarks on the record so that they would have a second opportunity to have input.

I would also request permission to pose two questions. First question, there was an analysis of the economic impact of the Green Party Referendum that was completed and made available to the Legislature and the general public. My question is, was there any analysis of the impact of the compact on the economy of Maine and specifically on our largest industry? One of the main reasons I posed that question is because in the compact, we have changed the scope slightly. Under the Green Party Referendum, it applied only to unorganized territories and now under the compact, we have made

it apply to a much broader range. It will apply to all areas in Maine. That is my first question.

My second question, I would like to pose this question to the Chair. Does the measure before us conform to MRSA Title 21-A, section 906, dealing with ballot questions?

The SPEAKER PRO TEM: The Representative from Caribou, Representative Robichaud has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: The issue most significantly impacting the Green Party Referendum with a very, very strict standard that first of all allowed no clear-cutting and second of all imposed severe restrictions on any kind of harvesting. Some of those we have heard about this morning is if you have to leave a stand of trees that is reflective of the stand of trees that you have removed, if you have 100-year-old trees, you need to leave 100-year-old trees. If you have saplings, you need to leave saplings. If you have softwood saplings, you need to leave softwood saplings. If you have hardwood that is a certain age, you need to leave hardwood that is a certain age. Those are the kinds of issues that drive the cost in terms of the Green Party Referendum. Those conditions are not in this bill, the compact that is before us. Therefore, there is not the same kind of economic impact that the compact has, that the Green Party Referendum has. I would also remind people that it is, in fact, many of the large landowners that are supporting this compact. I would assume that over the course of their working on it that they certainly have looked carefully at what the economic impact is and are comfortable with that or they wouldn't be supporting it. Thank you.

Representative ROBICHAUD of Caribou asked the Chair to rule if Bill was properly before the body pursuant to Title 21-A, section 906.

The SPEAKER PRO TEM: In answer to the young lady's question, there are three conditions in the statutes dealing with the proper format of a statutory referendum. The three conditions are that a voter would reasonably have different opinions on the different issues. B, having more than one question would help voters to better understand the subject matter and C, the Legislature determines that questions are separate and can be enacted or rejected separately without negating the intent of the Legislature. Clearly, this meets all three of those requirements and the chair would rule that it is proper.

The Chair ruled that this was properly before the body.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House: I need a clarification on a question I asked earlier. First of all, I did ask someone to define or give me an example of a clear-cut, as currently defined by FPA standards. I want to make sure this is correct. It is my understanding that would be 35 square acres clear-cut surrounded by a 30 square foot buffer zone and would have to guarantee regeneration and have a growth management plan. I want that to be affirmed or denied. Also, I need a clarification on the question of cost. I am reading in the appropriations and allocations in the back of the Majority Report and

maybe I added this up wrong, but I see \$5,000 plus \$30,000 plus \$399,640 plus \$398,158 plus \$384,640 plus \$383,158 and I haven't had a chance to add it up, but it is quite significant. My question is, how these funds will be allocated?

The SPEAKER PRO TEM: The Representative from Enfield, Representative Lane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House: The definition of a clear-cut under the Forest Practices Act, which is current law. A clear-cut is recognized when an area of five acres or more has been clear-cut in that it has a residual basal area, which is under 30 square feet. That is the smallest clear-cut. That is where a clear-cut is recognized as a clear-cut. If it is 4.9 acres and it has 10-square feet of basal area, it is not a clear-cut. I won't go beyond that on that one.

There are category one clear-cuts, which go from five acres up to no more than 35 acres. There are category two clear-cuts, which go from 35 acres up to 125 acres. There is another category, which goes from 125 acres up to 250 acres. Each classification has its requirements for regeneration. Under regeneration, the clear-cuts must be regenerated within five, five years. There are standards for regeneration where the clear-cuts must be regenerated. If they aren't regenerated satisfactorily, then tree planting would have to take place. Planting trees to bring the regeneration standards up to where they would need to be to meet the law.

Does that answer the question?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Thank you Mr. Speaker, just one clarification, that you just described, is under current FPA rules?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Thank you. That is correct.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Men and Women of the House: With reference to the question asked by the Representative from Caribou, Representative Robichaud, I agree that your decision was correct. However, I think there is a point to be made about that section of the law, which you read. As you indicated, when a referendum question is to be placed on the ballot, we have passed a law that tried to make sure that the issues were clear and that a whole bunch of issues were not bunched together for the people's choice where they had to vote yes on the whole package or no on the whole package.

In my opinion, the referendum question proposed by the Green Party does present separate questions. However, we can't determine that here. For example, some people may be in favor of a ban on clear-cutting, but a lot of other people may be against other provisions of that referendum question. Indeed, this is the problem that lots of us had with the Green Party Referendum question. Now we have the compact. We have a compact which asks lots more decisions from the voters, but they can only vote on it as a package. Some people might want to control liquidation sales. Some people might like

audits or might not like audits. Some people might want to ban clear-cuts or not ban clear-cuts. Some people might be in favor of or opposed to ecological preserves. The people don't have a chance to vote separately on those issues as our statute clearly indicates that we wish that they would have the choice to do. We are presented with a package although we do not make the decision about how to separate our questions, I think the policy question is that the people should have the choice of voting on separate questions. This compact does not do that. I think we should not present it to the voters.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: In order to clarify the fiscal note on this bill, you look at the appropriations and allocations section on Committee Amendment "A," you will find that the \$5,000 reference is a cost of the referendum. The cost to be absorbed by the Secretary of State's Office. The \$30,000 is, in fact, rulemaking, which happens in the first year. The allocation, which includes the four additional staff people and the education provision is for 97-98. The \$398,000 is for 98-99. Many of these costs reflect a current underfunding. We have heard a lot about that. In addition, those costs represent four additional staff people and again, with the amendment that was passed, there are up to eight additional staff people that have been added to this bill. I don't have the costs for those at this time.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Enfield, Representative Lane. Having spoken several times, now requests unanimous consent to address the House another time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative LANE: Thank you Mr. Speaker. I have really been trying to ask questions because there are so many questions that haven't been answered anyway. I thank you ladies and gentlemen of the House for allowing me this one opportunity. In towns, I am also looking at the appropriations and allocations. It says it is a state mandate pursuant to the Constitution of Maine that specifies that the Department of Conservation will reimburse all direct costs incurred by municipalities for revising ordinances and notification requirements. I presume that is yet to be determined how much of a fiscal note that would be and also if there was a runoff election within 60 days, has anyone figured out the cost of that and will the municipalities be reimbursed for that? Thank you.

The SPEAKER PRO TEM: The Representative from Enfield, Representative Lane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I apologize for not pointing out that the \$15,000 that is included in the fiscal is the money that would go to municipalities. It will be distributed in the same way that other money is distributed to municipalities. It is not a reimbursement so there is not an up-front cost. That is the language we put in there in order to make sure there was not a burden and it was not a cost mandate on towns. In terms of a runoff election, I don't believe that information has been calculated at this

time, but I certainly will do my best for enactment to have that information ready.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Gooley. Having spoken several times now requests unanimous consent to address the House one more time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative GOOLEY: Thank you Mr. Speaker. In reference to Representative Lane's question, which I don't think has been answered was when the Forest Practices Act was passed, the numbers of personnel, which were brought on board to take care of that law. I don't think that was answered. There was one position that was brought on board for the Forest Practices Act of 1989. Currently there are, if I heard correctly last week, about 10,000 woodlots, logger type operations in the State of Maine and right now there are somewhere between, in my recollection, 3,500 or 4,000 loggers in the State of Maine. There are about 10,000 logging operations in the State of Maine. If I heard the Director of the Maine Forest Service say correctly last week, that he is understaffed to visit every woodlot operation in the State of Maine.

A lot of these operations are actually handled by consulting foresters and or industry foresters, not by state foresters because they don't do that kind of work anymore. We can say that only a small portion of the actual harvest operations in the State of Maine, in any given year, which may be as many as 10,000 are visited by a staff from the Maine Forest Service. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Nobody has answered the question from the good Representative from Thomaston, Representative Simoneau. He commented that several of us mentioned that this is kind of subverting the initiative process for citizens. I think that was his question. He pointed out that the constitution does provide for this. My answer to that is, at the two public hearings I held and also a countywide one in my town, when I showed them the alternative, well, my answer is it is the scope of the alternative that we are placing in front of them as Representative Carleton mentioned. All the questions on there. It isn't a simple question. All be it, the ban referendum isn't that clear either, but they came out with three pages and we have 23 pages. At my meetings when they said, "Where is this alternative?" I handed them this thing of 23 pages. To me, it is a two-fold answer. One is the scope of this thing that we are presenting. To me, the constitution implies that it is a simple something that people could walk in and it is a yes or no thing that they can click with.

The other part of this is the substance of what we are presenting. Two of the main features are, one is the audit program. The highly touted audit program. Well my friends, that is voluntary. The way I understand when we write into law with the backup of the police and the court system and so forth, we say you shall. There again, we are making a mockery. To me, that is a poor way of presenting something to satisfy the constitution. We are presenting something that is a fair alternative.

One of the second major features is the so-called reserves, the set asides. So that we can see what

happens when nothing is done to the forest. My goodness, Baxter Park, how big? It is about 500,000. All we have to do is go there and look. It is the substance as well. To me, those are the type of things that make a mockery out of this as far as the initiative process.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is that this bill and all accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 407

YEA - Aikman, Ault, Bailey, Barth, Birney, Buck, Campbell, Carleton, Clukey, Damren, Dexter, Donnelly, Gerry, Greenlaw, Heeschen, Heino, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Kneeland, Lane, Layton, Lemke, Libby JL; Look, Lovett, Lumbra, Marshall, Marvin, McAlevey, Meres, Murphy, Nickerson, Perkins, Pinkham, Plowman, Reed, W.; Robichaud, Stedman, Stevens, True, Tufts, Underwood, Waterhouse, Wheeler, Winsor.

NAY - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carr, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, Dore, Driscoll, Dunn, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gieringer, Gooley, Gould, Green, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Johnson, Joseph, Keane, Kilkelly, Kontos, Labrecque, LaFountain, Lemaire, Lemont, Libby JD; Lindahl, Luther, Madore, Martin, Mayo, McElroy, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Poirier, Pouliot, Povich, Richard, Richardson, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Whitcomb, Winglass, Winn, The Speaker.

ABSENT - DiPietro, Farnum, Kerr, Poulin, Reed, G.; Rice, Truman.

Yes, 48; No, 95; Absent, 7; Excused, 0.

48 having voted in the affirmative and 95 voted in the negative, with 7 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

The pending question before the House is passage to be engrossed a roll call having previously been requested.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

ROLL CALL NO. 408

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Chartrand, Chase, Chizmar, Clark, Cloutier, Cross, Daggett, Davidson, Desmond, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gieringer,

Gooley, Gould, Green, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Johnson, Joseph, Keane, Kilkelly, Kontos, LaFountain, Lemaire, Lemont, Libby JD; Lindahl, Luther, Madore, Martin, Mayo, Mitchell EH; Mitchell JE; Morrison, Nadeau, Nass, O'Gara, O'Neal, Peavey, Pendleton, Pouliot, Povich, Richard, Richardson, Rosebush, Rowe, Samson, Savage, Saxl, J.; Saxl, M.; Shiah, Simoneau, Sirois, Spear, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winglass, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, Barth, Birney, Buck, Campbell, Carleton, Carr, Chick, Clukey, Damren, Dexter, Donnelly, Gerry, Greenlaw, Heeschen, Heino, Jones, K.; Jones, S.; Joy, Joyce, Joyner, Kneeland, Labrecque, Lane, Layton, Lemke, Libby JL; Look, Lovett, Lumbra, Marshall, Marvin, McAlevy, McElroy, Meres, Murphy, Nickerson, Ott, Perkins, Pinkham, Plowman, Poirier, Reed, W.; Robichaud, Stedman, True, Tufts, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor.

ABSENT - DiPietro, Kerr, Paul, Poulin, Reed, G.; Rice, Truman.

Yes, 89; No, 54; Absent, 7; Excused, 0.

89 having voted in the affirmative and 54 voted in the negative, with 7 being absent, the Bill was passed to be engrossed and sent up for concurrence. Ordered sent forthwith.

The Chair laid before the House the following item which was tabled earlier in today's session:

An Act to Conform the Maine Tip Credit to the Federal Tip Credit (EMERGENCY) (H.P. 1392) (L.D. 1893) (C. "A" H-923) which was tabled by Representative JACQUES of Waterville pending further consideration.

-In House, passed to be enacted on September 5, 1996.
-In Senate, passed to be engrossed as amended by Committee Amendment "A" (H-923) and Senate Amendment "A" (S-601) in non-concurrence.

On motion of Representative CARLETON of Wells, the House voted to Recede and Concur. Ordered sent forthwith.

On motion of Representative MITCHELL of Vassalboro the House recessed until 2:00 p.m.

After Recess

The House was called to order by the Speaker.

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

ENACTORS

An Act to Conform the Maine Tip Credit to the Federal Tip Credit (H.P. 1392) (L.D. 1893) (C. "A" H-923; S. "A" S-601)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

SENATE PAPERS

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-603) on Bill "An Act to Amend the Law Concerning Tax Increment Financing" (S.P. 775) (L.D. 1894)

Signed:

Senators:

FERGUSON of Oxford
CAREY of Kennebec
TUTTLE of Sanford
TRIPP of Topsham
KEANE of Old Town
BARTH of Bethel
MURPHY of Berwick
GREEN of Monmouth
REED of Falmouth
DUNN of Gray
DORE of Auburn
POIRIER of Saco

Representatives:

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

Signed:

Senator:

HATHAWAY of York

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-603)

Was read.

On motion of Representative MURPHY of Berwick the House accepted the Majority "Ought to Pass" as amended Report.

The Bill was read once. Committee Amendment "A" (S-603) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended. Ordered sent forthwith to engrossed.

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

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative KERR from the Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize the Department of Human Services to Accept Federal Funds and to Make Certain Expenditures" (EMERGENCY) (H.P. 1394) (L.D. 1895) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-939)

The Report was read and accepted. The Bill read once. Committee Amendment "A" (H-939) was read by the Clerk.

On motion of Representative JACQUES of Waterville, tabled pending adoption of Committee Amendment "A" (H-939) and later today assigned.

On motion of Representative GWADOSKY of Fairfield, the House recessed until the sound of the bell.

(After Recess)

The House was called to order by the Speaker.