

# MAINE STATE LEGISLATURE

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

**VOLUME III**

**FIRST CONFIRMATION SESSION**

August 21, 1987  
Index

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987  
Index

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987  
Index

**SECOND REGULAR SESSION**

January 6, 1988 to March 24, 1988

On motion of Representative Allen of Washington,  
Adjourned until Friday, March 18, 1988, at twelve  
o'clock noon.

STATE OF MAINE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
SECOND REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Thursday  
March 17, 1988

Senate called to Order by the President.

Prayer by Reverend David Sparks of the First Church  
of the Nazarene in Augusta.

REVEREND SPARKS: Let us pray. Father on this  
morning when our minds are turned not only to the  
shamrock and wearing of the green, but also to the  
sainted life of a follower of Christ, we are reminded  
that when Christ spoke of Himself as the way He was  
speaking of not only a way to the Father, but a way  
of thinking, a way of acting, a way of reacting, a  
way for all of life. We pray Father this morning  
that You would give to these, Your servants, Your way  
for their lives this day. Give to them Your  
compassion, that fatal capacity for feeling what it  
is like to live in the circumstances of another, that  
knowledge that there can be no peace and joy for some  
if there is not peace and joy for all. Give to them  
Your way of putting right before interest, putting  
others before self, putting the things of the spirit  
before the things of the body, Your way of putting  
attainment of noble ends before enjoyment of present  
pleasures. Give to them Your way of putting  
principles before reputations. Give to those who  
labor in this room today Yourself, that they may find  
God and the ordinary events and common things of this  
day, that they may know that everything good comes  
from the Father, that together we may rejoice in the  
opportunities to promote peace and joy in this day.  
All of this we pray in the name of that Christ. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Establish a Presidential Primary  
in Maine"

S.P. 123 L.D. 328  
(C "A" S-329)

In Senate, March 14, 1988, PASSED TO BE ENGROSSED  
AS AMENDED BY COMMITTEE AMENDMENT "A" (S-329).

Comes from the House PASSED TO BE ENGROSSED AS  
AMENDED BY COMMITTEE AMENDMENT "A" (S-329) AS AMENDED  
BY HOUSE AMENDMENT "A" (H-484), thereto in  
NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Permit Sharing of Confidential  
Information between Criminal Justice Agencies at all  
Governmental Levels"

H.P. 1467 L.D. 1978

In Senate, March 4, 1988, PASSED TO BE ENGROSSED,  
in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS  
AMENDED BY HOUSE AMENDMENT "B" (H-483) in  
NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Establish the Strategic Training  
for Accelerated Reemployment Program" (Emergency)

S.P. 946 L.D. 2494

In Senate, March 10, 1988, PASSED TO BE ENGROSSED.  
In House, March 14, 1988, PASSED TO BE ENGROSSED  
AS AMENDED BY HOUSE AMENDMENT "A" (H-478) in  
NON-CONCURRENCE.

In Senate, March 15, 1988, INSISTED.

Comes from the House, that Body INSISTED and  
ASKED FOR A COMMITTEE OF CONFERENCE.

On motion by Senator CLARK of Cumberland, Tabled  
until Later in Today's Session, pending FURTHER  
CONSIDERATION.

Non-concurrent Matter

Bill "An Act to Assure Adequate Housing for the  
People of Maine"

S.P. 954 L.D. 2526

In Senate, March 15, 1988, referred to the  
Committee on STATE AND LOCAL GOVERNMENT and ORDERED  
PRINTED.

Comes from the House referred to the Committee on  
ECONOMIC DEVELOPMENT and ORDERED PRINTED in  
NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMUNICATIONS

The Following Communication:

DEPARTMENT OF LABOR  
STATE HOUSE STATION 45  
AUGUSTA, MAINE 04333

March 15, 1988

The Honorable Charles P. Pray  
President of the Senate  
Office of the President  
State House Station 3  
Augusta, Maine 04333  
Dear Senator Pray:

I am pleased to submit the enclosed annual report on  
Chapter 22, Title 26, Maine Revised Statutes  
Annotated, 1984 Public Law, Chapter 823.

This past year has been the most active and  
productive to date for the program. A strong  
emphasis on education and training resulted in the  
direct training of over 3,000 individuals since  
September 1987. We plan to continue the emphasis on  
training of workers in higher risk groups in the  
coming year.

Please do not hesitate to contact me directly with  
any questions or comments regarding this program or  
the report.

Sincerely,  
S/James H. McGowan  
Director

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

SENATE PAPERS

Resolve, to Allow Joel Batzell of West Farmington  
to Bring Civil Action Against the State of Maine

S.P. 957 L.D. 2540

Presented by Senator WEBSTER of Franklin (By  
Request)

Approved for Introduction by a Majority of the  
Legislative Council pursuant to Joint Rule 27  
Which was referred to the Committee on LEGAL  
AFFAIRS and ORDERED PRINTED.

Under suspension of the Rules, ordered sent down  
forthwith for concurrence.

COMMITTEE REPORTS  
House

Ought Not to Pass

The following Ought Not to Pass Report shall be  
placed in the Legislative Files without further  
action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Remove Caps from the Maine  
Low-Level Radiation Waste Authority Act"

H.P. 1714 L.D. 2353

Ought to Pass

The Committee on AGING, RETIREMENT AND VETERANS  
on Bill "An Act to Eliminate the Requirement that the  
Deputy Adjutant General and the Director of the  
Military Bureau be the Same Individual"

H.P. 1726 L.D. 2369

Reported that the same Ought to Pass.

Comes from the House with the Report READ and  
ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in  
concurrence.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on ENERGY AND NATURAL RESOURCES on  
Bill "An Act to Ensure the Safe Siting of Gravel  
Excavation" (Emergency)

H.P. 1559 L.D. 2123

Reported that the same Ought to Pass in New Draft  
under same title.

H.P. 1848 L.D. 2530

Comes from the House, with the Report READ and  
ACCEPTED and the Bill in NEW DRAFT PASSED TO BE  
ENGROSSED.

Which Report was READ and ACCEPTED, in  
concurrence.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT LATER TODAY ASSIGNED FOR  
SECOND READING.

The Committee on JUDICIARY on Bill "An Act  
Relating to the Time Limit for Delivering the Warrant  
or Process by Which a Prisoner is Detained"

H.P. 1492 L.D. 2042

Reported that the same Ought to Pass in New Draft  
under same title.

H.P. 1847 L.D. 2529

Comes from the House, with the Report READ and  
ACCEPTED and the Bill in NEW DRAFT PASSED TO BE  
ENGROSSED.

Which Report was READ and ACCEPTED, in  
concurrence.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT LATER TODAY ASSIGNED FOR  
SECOND READING.

Divided Report

The Majority of the Committee on JUDICIARY on  
Bill "An Act to Abolish Joint and Several Liability"

H.P. 392 L.D. 526

Reported that the same Ought Not to Pass.

Signed:

Senators:

BRANNIGAN of Cumberland  
GAUVREAU of Androscoggin  
BLACK of Cumberland

Representatives:

THISTLE of Dover-Foxcroft  
MACBRIDE of Presque Isle  
PARADIS of Augusta  
MARSANO of Belfast

LEGISLATIVE HISTORY - SENATE, MARCH 17, 1988

VOSE of Eastport  
COTE of Auburn  
CONLEY of Portland  
WARREN of Scarborough

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Modify Joint and Several Liability"

H.P. 1844 L.D. 2524

Signed:

Representatives:

HANLEY of Paris  
BEGLEY of Waldoboro

Comes from the House the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator BRANNIGAN of Cumberland moved to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator BRANNIGAN of Cumberland to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

Senate

Change of Reference

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Resolve, to Fund Demonstration Projects for Day Care Services in Health Care Facilities (Emergency)

S.P. 835 L.D. 2169

Reported that the same be REFERRED to the Committee on HUMAN RESOURCES.

Which Report was READ and ACCEPTED.

The Resolve REFERRED to the Committee on HUMAN RESOURCES.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Revise the Energy Building Standards Act"

S.P. 93 L.D. 247

Reported that the same Ought to Pass in New Draft under same title.

S.P. 958 L.D. 2539

Signed:

Senators:

USHER of Cumberland  
MATTHEWS of Kennebec  
LUDWIG of Aroostook

Representatives:

MICHAUD of East Millinocket  
JACQUES of Waterville  
COLES of Harpswell  
HOLLOWAY of Edgecomb  
HOGLUND of Portland  
MITCHELL of Freeport

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representatives:

GOULD of Greenville  
DEXTER of Kingfield  
ANDERSON of Woodland  
LORD of Waterboro

Which Reports were READ.

On motion by Senator USHER of Cumberland, the Majority OUGHT TO PASS IN NEW DRAFT Report was ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT LATER TODAY ASSIGNED FOR SECOND READING.

Off Record Remarks

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House

Bill "An Act to Revise the Definition of Spouse Under the Maine State Retirement System"

H.P. 1834 L.D. 2511

Bill "An Act to Increase Work Incentive in the Unemployment Insurance Partial Benefit Structure"

H.P. 1839 L.D. 2517

Bill "An Act to Amend the Law Concerning Alternate Voting Procedures for School Budget Approval" (Emergency)

H.P. 1840 L.D. 2518

Bill "An Act to Provide Immunity from Civil Liability for Certain Emergency Medical Service System Participants"

H.P. 1841 L.D. 2519

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Provide Greater Public Dissemination of Information Concerning Prohibition of Certain Land Usages"

H.P. 1609 L.D. 2200

(C "A" H-480)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Senate

Bill "An Act To Promote the Prompt and Peaceful Settlement of Labor Disputes" (Emergency)

S.P. 956 L.D. 2531

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED.

Sent down for concurrence.

Senate As Amended

Bill "An Act to Expand and Clarify the Jurisdiction of the Maine State Pilotage Commission"

S.P. 821 L.D. 2143

(C "A" S-339)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

Bill "An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board" (Emergency)

S.P. 832 L.D. 2166

(C "A" S-340)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED.

Off Record Remarks

ENACTORS

LEGISLATIVE HISTORY - SENATE, MARCH 17, 1988

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Enforce 3rd-Party Liability Reimbursement for Medicaid Recipients as Required by Title XIX of the Social Security Act

S.P. 759 L.D. 2022  
(C "A" S-325)

An Act to Make Corrections in the Recodification of the Liquor Laws

H.P. 1598 L.D. 2184  
(C "A" H-467)

An Act to Amend the Laws Governing Absentee Balloting

H.P. 1600 L.D. 2189  
(C "A" H-468)

An Act to Prohibit Publication of Names of Concealed Weapon Permit Holders

H.P. 1817 L.D. 2487

Which were PASSED TO BE ENACTED and having been signed by the President, were presented by the Secretary to the Governor for his approval.

An Act to Study Alternative Dispute Resolution in the Superior Court

S.P. 861 L.D. 2249  
(C "A" S-324)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Expand the Medicaid Dental Program to Include Adults

S.P. 945 L.D. 2492

On motion by Senator PEARSON of Penobscot, Placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act Concerning Investment of State Funds in Corporations Doing Business in Northern Ireland

S.P. 757 L.D. 2008  
(C "A" S-323)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ENACTMENT.

Emergency

An Act to Conserve Striped Bass

S.P. 780 L.D. 2037  
(C "A" S-326)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

Senator CLARK of Cumberland was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator BRANNIGAN of Cumberland, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Establish the Strategic Training for Accelerated Reemployment Program" (Emergency)  
S.P. 946 L.D. 2494

Tabled - March 17, 1988, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION  
(In Senate, March 10, 1988, PASSED TO BE ENGROSSED.)

(In House, March 14, 1988, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-478) in NON-CONCURRENCE.)

(In Senate, March 15, 1988, INSISTED.)

(In House, March 16, 1988, that Body INSISTED and ASKED FOR A COMMITTEE OF CONFERENCE.)

On motion by Senator DUTREMBLE of York, the Senate INSISTED AND JOINED IN A COMMITTEE OF CONFERENCE.

The Chair appointed as conferees on the part of the Senate:

Senator PRAY of Penobscot  
Senator DUTREMBLE of York  
Senator PERKINS of Hancock

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on JUDICIARY on Bill "An Act to Abolish Joint and Several Liability"

H.P. 392 L.D. 526

Majority - Ought Not to Pass.

Minority - Ought to Pass in New Draft under New Title Bill "An Act to Modify Joint and Several Liability"

H.P. 1844 L.D. 2524

Tabled - March 17, 1988, by Senator CLARK of Cumberland.

Pending - Motion of Senator BRANNIGAN of Cumberland to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

(In Senate, March 17, 1988, Reports READ.)

(In House, March 16, 1988, Majority OUGHT NOT TO PASS Report READ and ACCEPTED.)

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. This is the first debated Bill of several Bills that are part of a package that the Judiciary Committee has put out. Just a quick history on the issues of insurance costs and tort reforms. Two years ago, a commission was recommended by three committees of the Legislature, the then Business and Commerce Committee that was in charge of oversight of insurance issues, the Judiciary Committee in charge of the oversight of the Civil Justice System in general and the Legal Affairs Committee dealing with their responsibilities of liquor liabilities. That commission worked for two years to study the relationship between the tort system, the system of suing people for wrongs and the costs and availabilities of insurance. That committee reported back to this Session of this Legislature and was received by the three

Committees. The Judiciary Committee has looked at its responsibilities in light of that tort and in light of twenty bills or more that were put before it last Session and held over because they applied to the work of that commission.

The Committee on Judiciary has been diligently working the various topics that are part of the recommendations regarding so-called tort reform, or changes in the tort system, the system of suing people for wrongs and neglects and so forth. We have packaged our reports in this way:

We chose all of those things that we believed chose to be unanimous and needed to be put before the two Bodies. We put them in L.D. 539 which was the most broad and comprehensive Bill that we had in front of us. That Bill has been engrossed in this Body this week and is now before the other Body. It is a unanimous Bill. It allows for many types of immunities that people wanted, immunities especially for those non-profit corporations, directors, offices, volunteers in non-corporate operations, hospitals, credit unions. It has a great deal of immunity and expanded immunity for professionals, doctors and others to be able to do peer review without threat of suit. It has several other changes and it augments several of the recommendations and laws passed by this Legislature two years ago dealing with medical malpractice. All of that has been packaged together. Taken out and packaged separately were two issues that were divided. One of them is before us this morning, one of them will probably be before us before the day is out. This one this morning deals with the doctrine of joint and several liability, the other one deals with damage caps on noneconomic damages. The Damage Cap Bill will be before us later. We are now looking at an 11 to 2 report from our Committee recommending that there be no change in the present law of joint and several liability. Several liability means that when a damage is done and is believed by the victim that the several people or institutions were involved in the negligent cause of that damage by negligence and carelessness, that they can sue all several people. Joint liability means that if those people, the ones who have been found by the jury or the judge to have caused the damage, they must together pay the victim whatever the damages the jury or the judge has awarded. This very important doctrine has been with us for hundreds of years. It is a doctrine that protects the small. I believe, against the large. Small victims whether they are a state against huge multi corporations or an accident victim at an intersection against several other drivers or other people. It is our recommendation to this Body this morning that we leave this doctrine alone because it is a very important doctrine. No one has been able to assure us that it will save on insurance costs or make insurance more available. We feel strongly that this is one doctrine that serves us well. Thank you Mr. President.

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

Senator BLACK: Thank you Mr. President. Mr. President, men and women of the Senate. It has been my pleasure this past Session to have the ability to serve on the Judiciary Committee with our Chairman Senator Brannigan. The Committee has worked very long and hard on these subjects. To save time, I will not elaborate throughout the comprehensive bills that we have, but this particular one is one of morality. This Bill is joint and several. It is very complicated and the decision to me as to which way to vote on it is very difficult. It has been

very difficult for some of the other members of the Committee. The issue of fairness. The plaintiffs certainly should be reimbursed for costs and loss of potential earning capacity as well as other things. The insurance companies of course don't want to pay too much. We understand that. The lawyers want to see no curves anywhere, this is due partly for the plaintiffs and partly for their own pocketbook. You take all of the things in balance and yet if you do away with joint and several liability, there is no assurance that you are going to replace it with anything better.

The cost effectiveness in the system would be more on a cap and for this reason I voted that way. Not everybody agreed with me, but I sincerely believe from everything that I have ascertained and in conversations I have had with judges and attorneys that are really looking at the subject. I had a lengthy talk with former Senator Trafton who had the same problem in the medical malpractice law that we had here. He was torn as to how he chose to treat that subject.

The thing that bothers me is if we do away with the joint and several, there is nothing going to replace it with any guarantees. It could be much worse, so in as much as we don't wish to spend too much time we will discuss the rest of these bills as they come along and I thank you for listening to me.

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

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. I am very much aware of all the good work that the Judiciary Committee has done on tort reform and I commend them for their stick-to-it-tiveness. I know they debated at length in committee and it was difficult for them to reach some degree of consensus. Nevertheless, I guess that I am not persuaded yet that some tort reform beyond what they have suggested ought to be accomplished. I think in this day of a litigious society where everybody sues everybody for everything, that we ought to make some serious attempt to resolve some of these problems. I am hopeful that we will continue with some degree of tort reform and I think that joint and several liability is an area where we need to continue to work because I am not persuaded that we ought to always search for deep pockets and I am not persuaded that those with very little true liability for a tort ought to pay the entire cost if he happens to have the deepest pockets. It seems to me as I recall when the Bill first went in more than a year ago so you will have to forgive me if I err, but essentially it was a rather modest proposal that suggested that a person would provide and be responsible for his proportionate share of noneconomic damage which essentially means the pain and suffering part. He would continue to be jointly responsible for all of the economic damages. I thought that made a fair amount of sense. It was a modest approach. The litigants continued to be able to sue everybody, but the part in which they were severally responsible was limited somewhat and to me it seemed a very modest step towards providing some degree of equity in this manner. I am a bit disappointed at the report. I do recognize that a substantial number of the Committee have concurred in that. Thank you Mr. President.

Senator COLLINS of Aroostook requested a Division.

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to follow up on the remarks of the Senator from Aroostook, Senator Collins to say that we, also as

Members of the Judiciary Committee, wish to follow up on this and other tort action especially in the area of medical malpractice costs of insurance. We hope that the Committee you serve on and that Senator Theriault Chairs, will continue in their efforts to work on medical malpractice costs. We are very concerned about the cost especially in the rural area to a physician who would like to work on a part-time basis. Senator Gauvreau will be addressing that further in another debate I feel sure. I just want to tell you that it is the commitment of our Committee to look into further ways of reducing those responsibilities that require exorbitant costs in insurance. Thank you Mr. President.

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

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. I wish to agree with the Senator from Aroostook, Senator Collins, in thanking the two colleagues who are serving on the Judiciary Committee. I realize they did spend a lot of time on this issue and it is not a very simple issue. It is a very complex issue. I think from my perspective one of the things that I would like to point out to you, before we make a decision on this motion, is that I think if you sat back and removed one element from the discussion and then took a look at how it would effect each and every one of us and the other citizens of the State of Maine, it may give you a different perspective on how you really view that. That element is the word insurance. If you were to remove insurance from this whole discussion so that you were actually talking about someone reaching into their pocket in divvying up the money that was awarded and not assigning a proportionate share based on their negligence to that award, would you then have the same attitude towards this piece of legislation? In other words, if someone were alleged to be seventy-five percent negligent and two other people were involved, maybe one was at ten percent and the other person involved the remainder, would you then look at the person who was only ten percent negligent and looking in light of the fact that that person who was seventy-five percent negligent did not have much in the way of assets and turn to the person that was only five or ten percent negligent and say, sorry, but you were there at the wrong time and you came into this, let's use an automobile accident as an example, came in late and were the four car involved let's say, when the real approximate cause of the injury and the damages were vehicles number one and two and number two was the one seventy-five percent negligent. Would you then look at the operators of three and four and say, sorry, but the first two guys didn't have insurance so you have to cough up three hundred thousand dollars? Is that the doctrine of fairness that you want to address today?

I think several times during the debate we have heard the word medical. I don't think we are really talking about a Bill to address only the medical situation. Any type of public liability is effected, not strictly medical. Yes, the medical field has had a severe problem, but there are several others that have had just as severe a problem and it will continue to mount. The good Senator from Cumberland, Senator Brannigan, made reference to the decades that joint and several liability has been in effect within the tort system and I would agree that over the years it has served its purpose. However, the abuse has taken place within that area for a good number of years. We are now asked today to address the situation because of many abuses that have taken place. I would only ask that in the issue of

fairness, is it being fair and fair to all concerned for passage of this motion? Thank you.

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. Fairness is an issue here and this doctrine tries to balance fairness or unfairness. Yes, at times it is unfair for someone who has not been responsible for all the damage to pay for all the damage, but if that person who is responsible does not pay, then the victim pays and that is not fair and that is what you just voted for. That the victim will bear the cost in order to be fair to the one who was responsible. I ask you to be responsible today in joining with us in choosing the most fair in a balancing of equity. Thank you.

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

Senator PERKINS: Thank you Mr. President. Mr. President, men and women of the Senate. I appreciate the good words of the good Senator from Cumberland, who has chaired and worked very hard on the Judiciary Committee on the tort reform measures of this year. And as a sponsor of one that was put in last year and studied through the year and with the hopes that we would do something and reform was in the terminology, I think those of us who have worked on this, as demonstrated by the division of opinions here today, feel a little let down. Now, I am not about to stand here today and say that its this industry or the other industry or whatever industry it is, I think there is blame enough to go around for all. My only reflection to you, my friends, is that the public is the loser when we cannot respond in a better manner than this response to a real problem. I appreciate what they have faced and are willing to face and will in the future address the problem of the lack of medical coverage for our rural areas, this indeed does address one of the major problems and indeed one of my major problems. But, it does not address one of the problems of the multiplicity of suits and a person having to pay the expenses of just defending himself in the everyday world when in some cases, not all but some, there was no fault there to begin with. So, I think it becomes apparent to us today and to those within the Chamber, that while we appreciate our good friends on the Judiciary working as hard as they have and laboring to what they think is a partial solution, that we would like them to labor harder and longer that this is not the solution for us. We may and probably will accept it, but for us I think we have to reach further because it is not the answer.

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

Senator DILLENBACK: Thank you Mr. President. Mr. President, men and women of the Senate. Last year we had a real problem in Legal Affairs on the Dram Shop Law and what was the problem? The very problem that you are voting on today, several liability, other people are being involved. What happened was people would have a drink in a hotel or a bar and they would go out and be in an automobile accident. The man that was in the accident didn't have any money, so what did they do? They came back and sued the hotel or they sued the bar or where ever he came from. But, we changed that law by a very simple rule. We put a cap on it, I think it was two hundred and fifty thousand, I am not sure right now, but do you know that some people lost their hotels and they lost their businesses because of the joint and several liability that we are voting on today? And it isn't fair, they weren't the one that caused the accident and they were not the people who caused



the trouble, but because somebody didn't have any assets, nor did they have insurance, they did go to the deep pocket. I think certainly you people have worked hard, I know you have worked hard. But it is a difficult problem and there has to be an answer to it because the person that perhaps wasn't involved at all is the person who is going to have to pay the bill. Talk about fairness? That is not fair. Thank you.

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. If people are not involved at all then they are not going to be found to be responsible by the judge or by the jury or who ever is making the decision. All I hear here is that people feel we have got to do something so we will vote to overturn a long established doctrine and it has been protecting this balance for years and years and years. Because we have got to do something and I guarantee you we have searched to find whether the overturning of this doctrine would make a major difference or even a minor difference. In insurance costs and availability we cannot find it. No one will say it, other states, this state, it is not so. It is just this broad axe approach that we have got to do something so we will vote to do away with this balancing act of joint and several liability. I encourage you to reconsider that.

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

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. The remarks of my good colleague from Cumberland regarding the number of years that this ability to recover damages under the joint and several liability act only point out the fact that what perhaps worked when there was a different mentality within our society as far as wanting to right a wrong. He is correct, it has worked for a number of years. However, I think that anyone who is at all observant in following through the media, the number of incidents over the last twenty years would have to agree that it is a system that is out of control. Clearly, the only people who I have really heard from for the most part are those people who benefit from this out of control system and namely those who practice law within that field, trial lawyers. This is of an economic boom to that field and naturally they want to cut off the type of funds that we are really talking about when we make any adjustments in tort reform litigation abilities. I would only ask you to stop before answering the roll and examine what you individually have seen these last few couple of decades and say to yourself is it really out of control? I would have to answer that yes, it is and because it worked for a number of years and it is now collapsing, there is no reason to continue because of its longevity. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator BRANNIGAN of Cumberland to ACCEPT the Majority OUGHT NOT TO PASS Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

Senator TWITCHELL of Oxford who would have voted NAY requested and received Leave of the Senate to pair his vote with Senator GAUVREAU of Androscoggin who would have voted YEA.

Senator PEARSON of Penobscot who would have voted NAY requested and received Leave of the Senate to pair his vote with Senator BALDACCI of Penobscot who would have voted YEA.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BERUBE, BLACK, BRANNIGAN, BUSTIN, CLARK, ERWIN, ESTES, KANY, KERRY, MATTHEWS, THERIAULT, TUTTLE, USHER, THE PRESIDENT - CHARLES P. PRAY  
 NAYS: Senators BRAWN, CAHILL, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, WEBSTER, WHITMORE  
 ABSENT: Senators DOW, DUTREMBLE  
 PAIRED: Senators BALDACCI, GAUVREAU, PEARSON, TWITCHELL

15 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 4 Senators having paired their votes and 2 Senators being absent, the motion by Senator BRANNIGAN of Cumberland, to ACCEPT the Majority OUGHT NOT TO PASS Report in concurrence, PREVAILED.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board" (Emergency)

S.P. 832 L.D. 2166  
 (C "A" S-340)

Tabled - March 17, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED (In Senate, March 17, 1988, READ A SECOND TIME.)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

An Act Concerning Investment of State Funds in Corporations Doing Business in Northern Ireland

S.P. 757 L.D. 2008  
 (C "A" S-323)

Tabled - March 17, 1988, by Senator CLARK of Cumberland.

Pending - ENACTMENT (In House, March 16, 1988, ENACTED.)

(In Senate, March 10, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-323).)

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

Senator COLLINS: Mr. President, men and women of the Senate. I realize it is St. Patrick's Day and I understand some people perceive this as an Irish Bill. I would like to tell you that my name is Collins and those of you who know history a little bit may recall that Michael Collins in 1921 was among the Irishmen in the South of Ireland that was involved in the struggle and I would like to tell you also that I married a woman by the name of McGuigan and if you can get any more Irish than that you do very well indeed. Since I know that my position will be contrary to some other Irishmen here today, I thought I might identify from whence I came.

The unfortunate thing Mr. President about this Bill is that it seeks to acquire some degree of social justice in another country by using the device

known as the retirement system investment fund. It seems to me the purpose of that investment fund and the investment policy is to provide a sound investment device that will insure that retirees get paid when they should. We hire professionals to do this and we are guided by their judgment and it seems to me that the Legislature ought not to involve itself in this procedure. It seems to me that it ought not to be a political device designed to provoke social justice no matter how laudable. Having said that and that being the basis of my argument I would also further point out and agree that there is discrimination in employment in Northern Ireland and there is a high degree of unemployment there and I hope that we can help that situation, but it seems to me that if we pull United States corporations out of there or make their being there more difficult, we, in fact, contribute to that unemployment that exists there. I understand that the policy in this country now provides for an investment program to put one hundred and fifty million dollars into Northern Ireland to help to create jobs. It seems to me that if we want to help Northern Ireland, we need to make investments there so we can create more jobs. This proposal works exactly in the opposite direction. Mr. President I hope we will think carefully and not emotionally on this issue today so that we will not interfere with the process that ought to take place with the investment fund in the State of Maine. Thank you Mr. President.

Senator COLLINS of Aroostook requested a Division.

Senate at Ease

Senate called to order by the President.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ENACTMENT (Division requested).

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

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House

Bill "An Act to Eliminate the Requirement that the Deputy Adjutant General and the Director of the Military Bureau be the Same Individual"

H.P. 1726 L.D. 2369

Bill "An Act Relating to the Time Limit for Delivering the Warrant or Process by Which a Prisoner is Detained"

H.P. 1847 L.D. 2529

Bill "An Act to Ensure the Safe Siting of Grave Excavation"

H.P. 1848 L.D. 2530

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

Under suspension of the Rules, all matters thus acted upon ordered sent down forthwith for concurrence.

On motion by Senator KERRY of York, RECESSED until 5:00 this evening.

After Recess

Senate called to order by the President.

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

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

Senate

Bill "An Act to Revise the Energy Building Standards Act"

S.P. 958 L.D. 2539

Which was READ A SECOND TIME.

On motion by Senator WEBSTER of Franklin, Senate Amendment "A" (S-341) READ.

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

Senator KERRY: Thank you Mr. President. Mr. President, men and women of the Senate. I think this amendment would jeopardize the integrity of the original Bill. I would just like to speak with regards to this issue. I think the Energy and Natural Resources Committee has worked through this issue at great length and many compromises have been met regarding energy building standards. I realize that the good Senator from Franklin, Senator Webster, has some concerns regarding having new homes being included under the building standards, but it is, I believe, the overwhelming sentiment of the people on the Energy and Natural Resources Committee as well as many of the people who participated in the many hours of negotiations on this issue that including new homes would be an essential element of our energy conservation program. I would hope that the Senate would see in its wisdom to concur with the Majority of the members of the Committee and the three fine Senators who worked on this Bill and who agree with the Bill without the amendment. So, in order not to debate this any further, I find that the Bill, as passed by the Energy and Natural Resources Committee, would address long term systemic needs for prudent conservation in the State of Maine. It would address concerns in the commercial sector, the residential sector and certainly it would address many needs that would in the long run prevent the need for the construction of large generating facilities that are very costly to the State of Maine. I hope that we would reject this amendment.

Senator KERRY of York moved the INDEFINITE POSTPONEMENT of Senate Amendment "A" (S-341).

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

Senator WEBSTER: Thank you Mr. President. Mr. President, men and women of the Senate. This amendment is what I term a common sense amendment that simply doesn't reach the arm of government any farther than we need to reach the arm of government. I have heard from a lot of people out there of apartment buildings throughout this state that were built with less than standard, less than appropriate, insulations in the walls, turned around and rented to people who are on low income. Those people have turned around and we the tax payers have paid to heat those buildings. I can understand the logic and the reasoning behind requiring that those buildings that are being built be insulated. But, let me tell you a story. I am in the heating business and during the last calendar year, during the summer I installed new heating systems in about twenty new houses and at least eighteen of those were houses had six inches of walls and six inches of insulation and that was the way the contractor and the homeowner agreed to build this home. The other couple cases were places in my district, which is a rural area of the state, these people own wood lots and they went out and they cut the trees off their land and they had it milled and

they created two by four walls and put three and a half inches of insulation in the walls. They are burning wood and I put in the wood furnace for them and I find it frustrating at the very least that this is an issue that the government ought to be coming out with. The Legislature ought not to be going out into the free enterprise system, into rural areas of this state, and tell people how they have to design their homes. Perhaps, it makes sense to suggest as we have done in the past that it would be beneficial to people that if they insulated their homes, but I just don't feel that we need anymore government. It makes logic to require industrial places, commercial, or homes to be insulated, but to require a single family dwelling and the addition of cost to these people is unfair and I don't believe it is reasonable. I would ask you to oppose the motion. Thank you.

Senator WEBSTER of Franklin requested a Roll Call.

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

Senator USHER: Thank you Mr. President. Mr. President, men and women of the Senate. In regards to this Bill, our Committee has worked long hours on this. It was in the last Session before us, so it is not new to us. L.D. 2539 does a public service to anyone buying a new home by insuring an adequate level of insulation. The people that will be most hurt if Senator Webster's amendment passes are the middle income citizens, who can barely afford a home on their own now. Those middle or low income citizens who are forced to rent living space, it is these people who some builders will try to sell the false economy of inadequate levels of insulation and these people will pay higher heating costs year after year. So, if they are improperly insulated, you know who is going to make the money. The people who will benefit from this pressure are those builders who are constructing fully insulated homes. The public and state energy policy will be the losers.

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

Senator DILLENBACK: Thank you Mr. President. Mr. President, men and women of the Senate. As I understand the amendment, it will only then make this Bill apply to multi-family buildings, residential buildings. My concern in this Bill is that I cut my wood too out in the country and I built my house and I have it properly insulated. My problem is with the commercial buildings. The commercial buildings we have seen in the past and I present probably today, when a person comes in and builds a shopping center or a store, a commercial building of this type, they put on a metal deck and they put on an inch or two of insulation and then they have triple net leases. The people come in and they pay the taxes, they pay the insurance, they pay the heating costs and everything that goes with it. What does this mean? This means that we are burning an excessive amount of oil in this state, we are burning an excessive amount of electricity and it isn't necessary. I think it is an advantage to have these laws in effect and I think these people are going to build buildings in the state of Maine and build them correctly. Thank you.

Senator WEBSTER of Franklin, requested and received Leave of the Senate to withdraw his motion for a Roll Call.

On motion by Senator KERRY of York, supported by a Division of at least one fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator KERRY of York to INDEFINITELY POSTPONE Senate Amendment "A" (S-341).

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

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE, BLACK, BRANNIGAN, BRAWN, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GAUVREAU, GILL, KANY, KERRY, LUDWIG, MATTHEWS, PEARSON, THERIAULT, TUTTLE, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators CAHILL, GOULD, MAYBURY, PERKINS, RANDALL, SEWALL, WEBSTER, WHITMORE

ABSENT: Senators BALDACCI

26 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator KERRY of York, to INDEFINITELY POSTPONE Senate Amendment "A" (S-341), PREVAILED.

Which was PASSED TO BE ENGROSSED.

Sent down for concurrence.

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

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, to Change the Reporting Date of the Commission on Sport Fisheries (Emergency)

H.P. 1663 L.D. 2275

In Senate, March 14, 1988, PASSED TO BE ENGROSSED, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-486) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Amend the Animal Control Laws" (Emergency)

H.P. 1819 L.D. 2493

In Senate, March 14, 1988, PASSED TO BE ENGROSSED, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-490) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Pursuant to Resolve

The Commission to Study the Use of Involuntary Services for Substance Abusers

The Commission to Study the Use of Involuntary Services for Substance Abusers, pursuant to Resolve 1987, Chapter 72, ask leave to submit its findings and to report that the accompanying Bill "An Act to Amend the Statutes Pertaining to the Emergency Treatment and Continuing Supervision of Chemically Dependent Persons"

H.P. 1857 L.D. 2542

Be referred to the Joint Standing Committee on HUMAN RESOURCES for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, pursuant to Joint Rule 18.

Senate at Ease  
Senate called to order by the President.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

Study Report  
Committee on STATE AND LOCAL GOVERNMENT

The Report of the Committee on STATE AND LOCAL GOVERNMENT to which was referred by the Legislative Council the Study Relative to Recodification of Title 30, MRSA have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Recodify the Laws on Municipalities and Counties"

H.P. 1855 L.D. 2538

Be referred to the Joint Standing Committee on STATE AND LOCAL GOVERNMENT for Public Hearing and printed pursuant to Joint Rule 19.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, pursuant to Joint Rule 19.

Which Report was READ and ACCEPTED, in concurrence.

Under suspension of the Rules, the Bill READ ONCE, without reference to a Committee.

Senate at Ease  
Senate called to order by the President.

Off Record Remarks

Which was, under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, without reference to a Committee, and ORDERED PRINTED in NON-CONCURRENCE.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

COMMUNICATIONS

The Following Communication:  
DEPARTMENT OF HUMAN SERVICES  
AUGUSTA, MAINE 04333

March 14, 1988

TO: Charles P. Pray, President of the Senate  
FROM: S/Rollin Ives, Commissioner,  
Department of Human Services  
SUBJECT: Findings of Study to Set Standards for  
Driving when Under the Influence of Drugs  
Other than Alcohol

Attached please find the OUI-Drugs Other than Alcohol Study which has also been submitted to the Legal Affairs Committee. The report is pursuant to Resolve of 1987, Chapter 21, "To Establish a Study to Set Standards for Driving when Under the Influence of Drugs Other than Alcohol", L.D. No. 964.

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

COMMITTEE REPORTS  
House  
Ought Not to Pass

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Provide Challenge Grants for the Development of Municipal and Regional Economic Development Strategies"

H.P. 1590 L.D. 2171

Bill "An Act to Incorporate Economic Growth and Development and Growth Management in Transportation Planning"

H.P. 1614 L.D. 2207

Leave to Withdraw

The following Leave to Withdraw Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Permit Fly-Fishing Only on a Portion of the St. Croix River"

H.P. 1704 L.D. 2341

Bill "An Act Regarding Security Deposits for Cable Television"

H.P. 1709 L.D. 2346

Ought to Pass

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Appropriate Funds to Conduct a Marine Pollution Monitoring Program"

H.P. 1728 L.D. 2371

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Implement Uniform Federal Lien Registration" (Emergency)

H.P. 1524 L.D. 2077

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-482).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-482)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-482) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Ensure the Complete Payment of Health Insurance Premiums for Teachers over a Certain Age"

H.P. 1490 L.D. 2040

Reported that the same Ought to Pass in New Draft under same title.

H.P. 1852 L.D. 2535

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

LEGISLATIVE HISTORY - SENATE, MARCH 17, 1988

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Clarify the Authority of Harbor Masters"

H.P. 1493 L.D. 2043

Reported that the same Ought to Pass in New Draft under same title (Emergency).

H.P. 1853 L.D. 2536

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-489).

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

House Amendment "A" (H-489) READ and ADOPTED, in concurrence.

The Bill in NEW DRAFT, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Provide for Effective and Timely Public Notice of Hearings Conducted by State Boards and Agencies" (Emergency)

H.P. 1511 L.D. 2061

Reported that the same Ought to Pass in New Draft under same title (Emergency).

H.P. 1854 L.D. 2537

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft under New Title

The Committee on AGRICULTURE on Bill "An Act to Conserve Agricultural Production Capability and to Promote Harmony between Agriculture and Adjacent Development"

H.P. 1276 L.D. 1746

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Promote Harmony between Agriculture and Adjacent Development and to Protect the Public Health, Safety and General Welfare" (Emergency)

H.P. 1842 L.D. 2522

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT under NEW TITLE, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-488).

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

House Amendment "A" (H-488) READ and ADOPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE, as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on Resolve, to Develop a Plan to Minimize and Dispose of Household Hazardous Waste

H.P. 1596 L.D. 2182

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Develop a Plan to Minimize and Dispose of Household Hazardous Waste" (Emergency)

H.P. 1850 L.D. 2532

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT under NEW TITLE, PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT under NEW TITLE READ ONCE.

The Bill in NEW DRAFT under NEW TITLE TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on JUDICIARY on Bill "An Act to Create a Noneconomic Damages Award Act"

H.P. 217 L.D. 269

Reported that the same Ought Not to Pass.

Signed:

Senators:

BRANNIGAN of Cumberland  
GAUVREAU of Androscoggin

Representatives:

THISTLE of Dover-Foxcroft  
PARADIS of Augusta  
MARSANO of Belfast  
VOSE of Eastport  
COTE of Auburn  
CONLEY of Portland  
WARREN of Scarborough

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Establish a Limit on Noneconomic Damages"

H.P. 1843 L.D. 2523

Signed:

Senator:

BLACK of Cumberland

Representatives:

MACBRIDE of Presque Isle  
HANLEY of Paris  
BEGLEY of Waldoboro

Comes from the House Bill and Accompanying Papers INDEFINITELY POSTPONED.

Which Reports were READ.

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

Senator BRANNIGAN: Thank you Mr. President. Mr. President, men and women of the Senate. We continue to debate the issues dealing with changes in the tort system and the system that we were dealing with this morning. This Bill would place a five hundred thousand dollar cap on noneconomic damages in any suits that are won. Even though that seems like a tremendous amount of money, it is and because it is, it is seldom an issue in the state of Maine. It has not been and is not expected to be very often a cap that will be reached. However, when it is, the majority of the Committee felt that when damages are so grievous that it should be up to the judge or the jury depending on whose making the decision to allow them to happen. So, the majority of the Committee has voted that this Bill Ought Not to Pass.

Senator BRANNIGAN of Cumberland moved to ACCEPT the Majority OUGHT NOT TO PASS.

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

Senator BLACK: Thank you Mr. President. Mr. President, men and women of the Senate. As we stated this morning, the Judiciary Committee has been working on tort reform for a long time and I agree with the Chairman that this was one of the issues that wasn't agreed upon fully. This places a cap of five hundred thousand dollars on noneconomic damages. The dual discovery motions that are

required before the suit has gone very far takes care of small claims to some degree, because the lawyers can't afford to do them or won't. This is to take care of the big ones that go out of hand and we felt that a message should be sent that there is a limit as to how much the insurance premiums can be paid and this is one way of doing it.

Senator BLACK of Cumberland requested a Division.

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

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. I would remind you that when this Bill was first presented it had a cap of two hundred and fifty thousand dollars. If was so long ago, but I think I was one of the sponsors of that particular Bill and I have seen it grown to a half of a million dollars and I still see that it is not suitable with the Committee. I guess I don't really understand the way the Committee thinks when they suggest that there ought not to be a cap in this area. I think that many of you may recall we do have some caps in certain areas of the law at the present time. As I recall we have a cap as it pertains to municipalities of about three hundred thousand and I think there is a cap on the Dram Shop law that was enacted in 1985 and I think that is two hundred and fifty thousand dollars. So, there is some precedent for establishing caps. I would point out to you that recently a number of other states throughout the country have established caps and I just happen to have a list here that includes California with a cap of two hundred and fifty thousand, Indiana, five hundred, Kansas, two fifty, Maryland, three fifty, Minnesota, four hundred, Missouri, three fifty, Nebraska a million, and they go on and there is a long list of at least two pages of states that have seen fit to take this action. I think we ought to remember when we vote on this measure that we are talking about the so-called pain and suffering caps, we are not talking about economic caps, we are not talking about the cost of medical care, lost wages, lost income, this is the part on top of that. It seems to me that we have got to restrain this at some point. So, I would hope that you would defeat the pending motion and at least pass the five hundred thousand dollar cap which I think is excessive, but at least it is a start in the right direction. Thank you.

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

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. Prior to the beginning of today's session, I had distributed to you a article that was quite timely, it was in yesterday's Wall Street Journal, and it points specifically to the problem that we are discussing at this time. This is the case and it makes reference to an attorney in New York, whose entire practice has been plaintiff cases resulting in huge jury awards and if you had glanced at that or would while I am addressing it, the types of claims that are brought, although perhaps not totally frivolous in nature, because of the peer review which ends up in the jury award and in the back of their minds as the jury deliberates and makes their award thinking that someone else besides the person that is being alleged to have done the damage is going to pay for the damages. is really where it all comes from. I would like to quote two or three sections from this, "A fireman who claims he contracted typhus from a flea while he was on duty at the firehouse in Manhattan figures the city owes him five million dollars for pain and suffering." This attorney Harry Lipsig, "since 1982, his firm has won 20.9 million dollars in

settlement and awards for clients in personal-injury cases against the city, millions of which it has kept for itself in contingency fees." Another section, "He and his partners carefully screen potential cases rejecting those cases that they feel will yield award or settlements of less than fifty thousand dollars."

It is a high stakes gamble. The ability to finance cases is increasingly important in the practice of personal-injury law, "most plaintiff's could never afford the costs of preparing a case for trial, so law firms pay to retain investigators and expert witnesses, to copy voluminous medical records and take witnesses depositions. In effect, these firms are gambling in their ability to win. When they win, the lawyers typically take one-third of the proceeds in fees, plus their costs, from the settlement or award.

This morning I spoke to you with regards to fairness. I am wondering who we are being fair to. I also said to you this morning that one of the areas I hear from were the trial lawyers, well obviously if we are talking about limiting their income or their potential income, I guess perhaps I would be on the phone. I think that as we think about the people who have contacted us with regard to this type of legislation we should put it into its proper perspective. The trial lawyers, of course, allege that it is the insurance companies, the insurance companies say it is the attorneys. We, as Legislators, are sitting here trying to make some kind of determination and trying to be fair and fair with all concerned. All concerned is everyone who sits in this Chamber today, whether we sit here as Legislators or as guests and it concerns everyone in the state of Maine that has the exposure and is protecting themselves, because sooner or later it is related through their insurance premiums or through the products they buy and it does not have to be medical. As I stated this morning, it also is passed on through manufacturers costs of goods, through their product liability costs, and eventually it comes back to the consumer. It all comes back sooner or later to all of us. Now, the last couple of decades the large type lotteries have come into being and it would seem that although we have an official lottery, there are many people who look on noneconomic damages and have looked on noneconomic damages as exactly that. Now, I don't argue with the cases of someone that has permanent injuries and that is all covered, extenuating medical circumstances and a jury award, those are compensable and they are taken into consideration. We are now talking about strictly the penalty and an arbitrary figure of what somebody thinks it is actually worth pulling a figure out of the air.

History has shown in other states and there are now twenty-eight states that have already passed the cap and those caps range anywhere from the low of one hundred and seventy-seven thousand, to a million dollars and I have also heard remarks from some of my colleagues and others that have some interest in this legislation, that it really hasn't hit Maine yet. I don't think that we are trying to close the door, because it hasn't hit Maine across the board. It has hit Maine in the medical area and there are cases where it has already hit Maine. We are not a California, we are not a New York, we are more rural, we don't have the same types of exposures in all cases, but it would appear to me that if we are going to do anything with tort reform at all and there appears to be, at least in my district as I go through the district and to various meetings, and I have heard not only from the medical community, but from everyone, the desire to hold their costs to a

reasonable sum. Therefore, I think before we count this as frivolous legislation and just discount it as the battle between the insurance companies and the attorneys, we think long and hard. And as I said this morning, I think the fairness gets into this and the fairness issue extends not only in this Chamber but throughout the State of Maine. Thank you.

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to explain to the Members of this Body my opposition to imposition of caps, as it were, on civil jury awards in this state. I have some severe philosophical objections to this matter, but I want to address a few issues before I get into my formal argument, if you will.

This is my sixth year in the Maine Legislature and although all of us probably have had some rather rough days and sometimes we question why we offer ourselves to the avails of public service, I think most of us would agree on balance that we have grown as individuals in the Legislature. We have enjoyed our opportunity to serve the people of the State of Maine. That certainly is true with me. I must say that being human I sometimes take offense at the generic classification which I have been tossed into and it puts me in a difficult situation since I have chosen as my life's work to be an attorney. I felt that was an appropriate vocation, I have always wanted to help people and I thought that I could do that best serving as a counselor of law. It is difficult for me when I know that others prejudice me and prejudice my arguments and dismiss them out of hand because I happen to practice law. Now I don't practice law in the league where million dollar verdicts are routinely rendered. I have not had a case which has given approach to the heights of five hundred thousand dollars. I am not sure if I will, given the general nature of my practice. So, I can safely say to those who might entertain those concerns there is no concern for me as far as any fee that I might generate in a case being effected at all by this legislation. But it does disturb me to the extent that I am able to frame an intelligent and forceful argument in opposition to the general notion of legislative intervention in jury verdicts, that our arguments will be discounted because of the profession which I have chosen. I was trying to think of an appropriate story I could give with you here this evening regarding not just my impression, I think, to the whole area of tort reform, but also that shared by the Judiciary Committee. As you recall, the last time I addressed this esteemed Body, I shared with you a vignette regarding Baseball and I will share with you another vignette this evening. It seems that back in the mid-thirties there was a rather colorful baseball player who played for the Washington Senators, by the name of Frenchie Borgdane. Well, Frenchie was truly a character and occasionally he was given to outbursts of emotion and it seemed that on one some sultry August day he took exception to being called out on strikes by the home plate umpire. In fact, he had the temerity to spit upon the umpire's shoes. Well, that brought upon an appropriate discipline by the league office and he was given a fine of about five hundred dollars. Not an inconsiderable amount of money during those days. I know they didn't put caps on fines on baseball players in those days. In any event, press approached Frenchie and asked him what he thought about the five hundred dollar fine leveled upon him by the Commissioner's Office, to which he responded, well it was more than I expectorated. Now, the point

of that story is that perhaps the Judiciary Committee in reviewing the whole area of tort reform as it is called or civil justice restructuring, came under the impression that no one simplistic answer was available to us to resolve the problems which we have in this state.

I think there is general consensus, not only in the Committee but also in the Legislature, that Maine is not a haven for civil litigation, and that it is in fact a rare jury indeed which imposes a verdict in excess of one hundred thousand dollars, let alone a quarter of a million dollars or five hundred thousand dollars, as is being suggested in this legislation. We have been able to ascertain that there are two basic issues dealing with the so-called insurance crisis. One was access to lines of insurance and the other was affordability and it seems that there really is not problem as far as access to lines of insurance is concerned. With respect to affordability, there are a number of factors which have led to a general escalation in costs in insurance lines. But, on balance we have seen a stabilization of costs of insurance and that Maine, in fact, has relatively low jury verdict experience in comparison to other states.

Now, we are being asked today to impose a cap of some five hundred thousand dollars in what has been referred to euphemistically as a noneconomic damage and certainly for those who have over the years cast dispersions upon lawyers talk, I think not noneconomic damages perhaps is the ultimate in euphemisms. We are talking about nothing more than peoples suffering, anguish and pain. But, we certainly can take the emotion out of that if we refer to it as noneconomic damages. It seems to me in perfect candor this legislation we have before us today in some respects is insignificant. It will in fact effect a relatively small amount of people each year in this state. Between the period of 1984 and 1987, the Trafton Commission found only three jury verdicts in excess of five hundred thousand dollars, that I think is low. Probably on the average year we are looking at probably nine or ten verdicts which in total exceed or approach a million dollars that would be verdicts which include awards for pain and suffering, as well as for lost earnings and medical payments. So, I think we can say with some degree of certitude that if we adopt this legislation we will effect a paucity number of people, perhaps nine or ten people, and certainly when one compares the impressive array of lobbyists and organizations on the other side, it is tempting to vote for this legislation. I don't think it will do anything. It will sent a false message to those who have been most adversely impacted, our physicians in this state, that the Legislature has taken forthright action dealing with malpractice premiums, but we all know that is not the case. Although, I am the second Democratic Senator on the Judiciary Committee, my primary legislative responsibility is Chair of the Human Resources Committee and during my years on that Committee I have come to appreciate the very real problem we have in this rural state with access to quality medical services. Without question I agree that we have a significant and a major problem in some parts of our state regarding access to physicians. I have attempted to work this year on legislation which would be much more comprehensive and I think would focus our efforts upon the problems of the doctor community rather than to strike out in somewhat random fashion at all the potential plaintiffs in our state.

I think the first objection I have to this legislation is it simply is not focused, it is

general, arbitrary, and it really won't amount to anything. which I think is the most disturbing thing of all. We will start a small handful of people, but who will those people be? Most likely it will be people very young in age, in adolescence or just perhaps five, six or seven years of age, who reasonably could be expected to receive large pain and suffering awards. Or perhaps elderly individuals who are not working, have no claim, the lawyers call it specials or lost wages, it seems to me that those people are more likely to be effected by this legislation.

If we take for example a five year old child who was run over by a drunk driver and to who is paralyzed and assuming we put a cap of five hundred thousand dollars on that individuals pain and suffering. The person will have essentially have lost mobility for his or her entire life. And assume the person has a life expectancy of age seventy-five, we are talking about a person who will be getting about seven thousand, five hundred dollars a year for the loss of his or her mobility. So, I think for that person, that person who has been paralyzed, we would recognize that imposing a cap would impose a grievous in justice. I don't think any of us, under that factual scenario, when you have a young child, perfectly innocent, run over and paralyzed, that is not justice under any stretch of the imagination. What is the trade off? I think the trade off might in fact be worthwhile if we were to impose or effect a significant reduction stabilization in insurance rates in the State of Maine, that though will not come to pass. The evidence which the Judiciary Committee received from many individuals, even insurance companies, I think demonstrates that.

We heard from the good Senator from Aroostook, Senator Collins, that other states have adopted caps and that we should follow their lead. The problem with that is that many of the states which have adopted caps have realized the significant rate hikes just in the last year. St. Paul's, a major medical malpractice insurer, imposed rate hikes in Alabama, California, Colorado, Idaho, Louisiana, Minnesota, Missouri, Utah and Virginia, and in many of those states, Idaho for example, a fifty percent increase. The same is true in Colorado. The reason I point that out is those are the states which have caps. I think that points to the inherent futility in using arbitrary caps as being the tool to provide any type of insurance relieve. I want to stress the fact that the Judiciary Committee recognizes in certain segments of our state, primarily in the medical community, there is a significant problem. Medical malpractice is doubling every five years. We know that at that rate it is simply irrational to expect a doctor practicing in high risk profession to service our rural areas, because there is simply inadequate volume to allow him or her to provide for the costs of practice. We understand that, we are trying to come up with legislation which would, I think, be focused and reasonable. I think Senator Brannigan mentioned to you this morning, the Judiciary Committee is proposing that further review on this issue be allowed and we would report back next year on the civic legislation dealing with the medical community.

Beyond that, Maine has adopted certain alternatives. which are just now coming into their own. For example, in 1985, this Legislature adopted the use of screening panels and if you are not familiar with those, basically any claim from medical malpractice in the state of Maine, prior to its being submitted to a court and jury for consideration has to go through a screening panel, which consists of

three fact finders, and the recommendation of the screening panel will have to be put in evidence to a jury in the event that the case goes to trial. We have received reports just two weeks ago from our Judiciary, Justice Brody, that in fact the screening panels are working in Maine and that we believe they hold a significant potential for sorting out weak cases and limiting those medical malpractice cases which go to juries to those which are really well founded.

It is ironic that we are being asked to approve caps this evening in light of the fact that many of the states, as I pointed out earlier, which have adopted caps have realized significant rate increases in the last year. In Maine, I believe St. Paul's came in and received a thirty percent increase this year. That increase, and we are a state without caps, is well below the caps in many other states which have and for several years have operated under mandatory caps. The purpose in this discussion this evening, I think, is to point out to you although it may be on the surface very attractive to consider imposing a cap to send a message to our businesses and physicians, that yes we are serious about really coming to grips with the "insurance crisis" in our state, we will really do nothing at all, and I think when we really look at the facts, we understand that. I also understand a few other necessities of political life. It is an election year, I commend the lobby for doing an excellent job in contacting all of us, writing letters, making phone calls, I have met with my share of physicians on this issue. I honestly do not believe that this legislation before you today will have effect at all in dealing the insurance crisis. I know that it will severely effect a small number of people, eight, nine or ten people.

There is one more point I think we should point out and I think it is in reference to my colleague the good Senator from Androscoggin, Senator Whitmore, who would invite you to engage in that long held ritual in the Maine Legislature of lawyer bashing and we understand that this nefarious troglodyte in New York, attorney Harry Lipsig, is raking in thousands of dollars with a very lucrative personal-injury practice. Well, what was not mentioned and should be mentioned is that the Judiciary Committee unanimously this year imposed a cap on attorneys fees in these types of cases. I would also invite those of you in this Chamber that we ought to seriously give consideration to more progressive means of income taxation if we are serious about producing income redistribution.

So, I think that the issue of while the lawyers are out to make a killing, doesn't really have any bearing. To repeat, we have a small number of cases in Maine where we have verdicts in excess of five hundred thousand dollars a year. This legislation will impose a rather freakish insult on those unfortunate people who have been severely injured in this will be done in the name of somehow dealing with our insurance crisis. It will do nothing of the sort and it is for these reasons that I would urge you today to accept the Majority Ought Not to Pass Report of the Committee on Judiciary and defeat this legislation. Thank you.

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Off Record Remarks

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



Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. Somewhere back in the middle part of the good Senator from Androscoggin's comments and eloquent words as usual on the floor of this Body, mentioned that this legislation goes too far. I would just offer to the good Senator from Androscoggin and those who support the Majority Ought Not to Pass Report that please vote against the pending motion so that I might offer an amendment which will take care of that problem.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator BRANNIGAN of Cumberland to ACCEPT the Majority OUGHT NOT TO PASS Report.

A vote of Yes will be in favor of ACCEPTANCE.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BRANNIGAN, BUSTIN, CLARK, DOW, ESTES, GAUVREAU, TUTTLE, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BALDACCI, BERUBE, BLACK, BRAWN, CAHILL, COLLINS, DILLENBACK, EMERSON, ERWIN, GILL, GOULD, KANY, KERRY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TWITCHELL, WEBSTER, WHITMORE

ABSENT: Senator DUTREMBLE

10 Senators having voted in the affirmative and 24 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator BRANNIGAN of Cumberland, to ACCEPT the Majority OUGHT NOT TO PASS Report, FAILED.

The Minority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report was ACCEPTED IN NON-CONCURRENCE.

Under suspension of the Rules, the Bill in NEW DRAFT under NEW TITLE READ TWICE.

On motion by Senator MATTHEWS of Kennebec, Senate Amendment "A" (S-342) READ.

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

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. My amendment this evening which I hope you will support does what basically the good Senator from Androscoggin, Senator Gauvreau, mentioned.

The concern that he has and some others in this Body I feel have that the Minority Report goes too, too far that limiting noneconomic damages across the board is too sweeping. I would read what my amendment does, "The purpose of this amendment is to apply the limitation on awards of noneconomic damages to medical malpractice actions only. The amendment limits the damages caps to medical malpractice actions by use of the term 'action for professional negligence'. The term is defined in the Maine Health Security Act. It includes actions seeking damages for injury or death against any health care provider or health care practitioner, or their agents or employees." Number two, "it makes it clear that damages for care provided outside of a health care facility, and damages arising from the lost income of a person who must give up work to take care of an injured relative, are economic, rather than noneconomic damages."

This amendment quite obviously applies to medical malpractice and the importance of trying to get a

handle on the rates as we have all heard enough over the last week and certainly longer than that. I would urge you in this Body to support this amendment. Thank you.

Senator CLARK of Cumberland requested a Roll Call.

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I had an occasion to hear part of the recitation of the purport of this proposed amendment from the good Senator from Kennebec, Senator Matthews, but confess that I was unable to grasp its full significance and impact and would indulge him in requesting that he rise and explain further what his intent is in offering this amendment at this time. Thank you.

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

The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. I thank the good Senator from Androscoggin, Senator Gauvreau, for his question. My amendment will simply narrow the scope of this Bill to medical malpractice actions only, keeping the cap at five hundred thousand dollars from noneconomic damages and I would urge my colleagues of this Body to support this amendment.

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

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. I realize the hour is waning on and I really don't want to drag it out too long, so I will be brief. It would appear to me that the medical profession would not be the only ones with the problem. In my other remarks I addressed product liability problems, public liability problems across the board. I guess it is not up to each and everyone of us to decide are we going to segregate out one as opposed to the Minority Report which levies a five hundred thousand dollar cap on all noneconomic damages. Thank you.

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

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. I asked for the roll call just a few minutes ago because I want to be honest. My phone, here in the State House, has been ringing constantly this afternoon and those who have called represent the medical profession. To my knowledge there has been no greater profession impacted by liability insurance than the medical profession and that, from my perspective, is really the main thrust of this measure initially and why many of us are aware that we would accept a Minority Report from the Committee on Judiciary. Personally, I think the entire Bill violates the Constitution of the State of Maine, Article 1, Section 19, and that this issue will eventually be resolved by the courts. I think that the good Senator from Androscoggin, Senator Gauvreau, has explained that those who are most vulnerable, the young, the aged, the disabled and the poor would have been the victims of this Bill. Where are the extreme awards in the State of Maine dealing with product liability? Where is the history and the cry that would move this Chamber to include this all encompassing Bill? I think that the amendment narrows the focus to an issue with which all of us have been apprized by our constituents and the well organized and well represented medical community of this state. By narrowing the focus of the Bill, that much, we will at least have a microcosm of experience to see if in

fact the insurance industry with this cap will lower its premiums to those medical practitioners across the state who are, in fact, withdrawing their services because of the oppressive rates.

Members of the Senate, I know of medical people in my community and in the area around my home town who decrease the charges for their services for people who are unable to pay and I know also members of the law profession who decrease their rates, despite the debate that I heard in the other Chamber yesterday, for those people who are unable to afford access to due process. But, I have never in all of the years I walked this earth ever heard of an insurance company or an agent who rebated part of his or her commission to those people who could ill afford insurance premiums. The genesis of this Bill emanated from the medical liability crisis that this state has experienced. This amendment addresses it specifically that is why having lost on round one, I encourage you to join me and support the adoption of this amendment. Thank you Mr. President.

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. I hadn't planned to speak on this Bill in the interest of saving time for this Senate. However, this is too important an issue for me to not speak on it now. I object strenuously to this amendment. I would rather go down in total defeat than accept this amendment. I am probably the only member of this Body, maybe I am wrong, who sat on the Tort Commission and listened to this for a long, long time. What your Judiciary Committee, your Majority Report told you was exactly what your Trafton Commission told you; caps don't work and that is the bottom line. I am not a lawyer, I am not a doctor, I am just a human being here that has to operate under this system. I don't know all the fancy words, but what I do know is that we have a court system in this state and it works very well and we pay very high wages to this people who run that court system and the ones who make those decisions are called judges. Unless we are ready now to say our judges either don't or won't do their job, then that is when you go for caps. They set the caps, they are the ones who make those decisions because we gave them that right, we gave them that job to do. Why does it always come down to the Legislature having to do the job for people we pay to do the job for us? Why does it always come down to that?

Let me read to you from the Campaign for Fair Rates and Equal Justice. Who are those people? The Maine Committee on Aging, the Maine AFL-CIO, the Maine N.O.W., Natural Resources Council of Maine, Building and Construction Trades Council, Maine Association of Handicapped Persons, Maine State Nurses Association, Maine People's Alliance, Maine Trial Lawyers Association, Maine Audubon Society, Injured Workers, Inc., Maine Head Injury Foundation. One year of taking care of a head injury person has is \$100,000 and we want to cap it. Protect our Environment from Spray Toxins, International Brotherhood of Firemen and Oilers, Local #246, Maine Association of Independent Neighborhoods, a majority of the Judiciary Committee. Let me quote something from those:

"Caps are unconstitutional, courts in ten states have overturned caps as unconstitutional, Florida, Illinois, Kansas, Montana, New Hampshire, North Dakota, Ohio, Texas, Virginia and Washington, by deciding the value of all future injuries without hearing the facts of each case, arbitrary caps violate our constitutional rights to trial by jury, due process and equal protection" and further, the

St. Paul and this is a quote from the St. Paul Letter to the Trafton Commission on 10/14/87. "The St. Paul has not joined other insurance companies or insurance trade associations in their promotion of changes in the Civil Justice System. It simply is not possible to predict with any reasonable degree of accuracy the extent of dollar savings which might result from any given change in the Tort System, or when that savings might be realized whether or not any resulting reduction in recoveries will be sufficient to produce an actual rate reduction over time is uncertain. The St. Paul came to the same conclusion in Florida in 1986 when it and Etna reported to the Florida Department of Insurance that a \$450,000 cap would have zero percent impact on their premiums because most policyholders have less than \$450,000 of coverage." Thank you Mr. President.

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

Senator GILL: Thank you Mr. President. Mr. President, men and women of the Senate. I too did not intend to speak on this issue particularly since it is so late. I think the good Senator from Cumberland, Senator Clark, mentioned that we haven't had the awards in this state that would encourage us to vote on this amendment. I beg to differ with her because there have been major awards in this state. The Ricci Case in Cumberland County for instance was a \$27 million award. We have had awards against the Eastern Maine Medical Center and that was a \$1.3 million award. We have had an awards against Maine Medical Center which was a \$3.1 million award. I remember when we were discussing before this Session last year, we had a national magazine that carried an article on obstetricians in the State of Maine and the fact that in many areas and particularly they were talking about the Lewiston area of the state, that there was a chance there would be no obstetricians in the state to deliver babies. I certainly don't want to go back to my constituents and tell them that we had an opportunity to do something along the lines of medical awards being given and that we did not take that choice to do that. I don't want to go back and tell our mothers that they can't depend on an obstetrician in town to deliver their child. I certainly wouldn't want to go to the rural areas and say to a mother who is ready to deliver, sorry but there is no obstetrician here to help you out. I would ask you to support this amendment. It is a step, it is a beginning and I think it is a very important one.

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. Just an inquiry through the Chair to anyone who cares to answer. Were those awards justified?

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

The Chair recognizes the Senator from Androscoggin, Senator Whitmore.

Senator WHITMORE: Thank you Mr. President. Mr. President, men and women of the Senate. Just one point of clarification. I believe in Senator Clark's remarks she made reference to insurance companies and insurance agents rebating to the elderly and to those who could not afford to pay. I would just like to point out to the good Senator that it is illegal for an agent to rebate and if they are caught doing so they lose their license to sell insurance in this state. That was a point I wanted to clarify.

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

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec, to ADOPT Senate Amendment "A" (S-342).

A vote of Yes will be in favor of ADOPTION.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BALDACCI, BERUBE, BLACK, BRAWN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, EMERSON, ERWIN, ESTES, GILL, GOULD, KANY, LUDWIG, MATTHEWS, MAYBURY, PERKINS, RANDALL, SEWALL, THERIAULT, TWITCHELL, USHER, WEBSTER, WHITMORE

NAYS: Senators ANDREWS, BRANNIGAN, BUSTIN, GAUVREAU, KERRY, PEARSON, TUTTLE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senator DUTREMBLE

Senator PRAY of Penobscot requested and received leave of the Senate to change his vote from Yea to Nay.

26 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator MATTHEWS of Kennebec, to ADOPT Senate Amendment "A" (S-342), PREVAILED.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

Senate

Leave to Withdraw

The following Leave to Withdraw Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Resolve, to Establish a Study Commission on Maine Job Service Procedures

S.P. 833 L.D. 2167

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act Pertaining to the Establishment of Market Assistance Plans

H.P. 1820 L.D. 2495

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Providing Conformity with the United States Revenue Code Under the Maine Income Tax Law for 1987

S.P. 868 L.D. 2263

(S "A" S-334)

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with No Senators having voted in negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1988

H.P. 1831 L.D. 2507

This being an Emergency Measure and having received the affirmative vote of 35 Members of the Senate, with No Senators having voted in negative, and 35 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board" (Emergency)

S.P. 832 L.D. 2166

(C "A" S-340)

Tabled - March 17, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, March 17, 1988, READ A SECOND TIME.)

On motion by Senator TUTTLE of York, Senate Amendment "A" (S-343) READ.

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

Senator DOW: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to ask a question. I didn't have a chance to look at this amendment and I haven't been able to ask any questions on it. Part of the State Police money comes from the Transportation Budget and I was wondering if in fact this would effect the Transportation Budget at all?

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

The Chair recognizes the Senator from York, Senator Tuttle.

Senator TUTTLE: Thank you Mr. President. Mr. President, men and women of the Senate. In answer to the good Senator from Kennebec, Senator Dow's question, my understanding is that it would not. This was a clarifying amendment that was given to the sponsor of the Bill and myself to clarify some of the concerns the Commissioner of the Bureau of State Police had on this Bill. The amendment makes it clear that State Police officers, senior agents and special investigative agents will continue to be paid their normal salaries by the Bureau of State Police. Any additional compensation arising out of temporary assignment to the Bureau of Intergovernmental Drug Enforcement will be paid by that bureau. I hope that answers the Senators question.

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

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I would like to pose a question. Traditionally, State Police for the most part have been paid for seventy-five percent by the transportation monies and twenty-five percent by the General Fund. While I am not objecting that much, this amendment would tend to indicate to me that it was going to be all paid for by the Transportation Fund and if that is so, is that the case?

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

The Chair recognizes the Senator from York, Senator Tuttle.

Senator TUTTLE: Thank you Mr. President. Mr. President, men and women of the Senate. In regards to the Senator from Penobscot, Senator Pearson's question, I do not know.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending the motion of Senator TUTTLE of York to ADOPT Senate Amendment "A" (S-343).

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

An Act Concerning Investment of State Funds in Corporations Doing Business in Northern Ireland  
S.P. 757 L.D. 2008  
(C "A" S-323)

Tabled - March 17, 1988 by Senator CLARK of Cumberland.

Pending - ENACTMENT (Division Requested)

(In House, March 16, 1988, ENACTED.)

(In Senate, March 10, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-323).)

Senator WEBSTER of Franklin requested a Roll Call.

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

Senator KERRY: Thank you Mr. President, ladies and gentlemen of the Senate. As I look throughout this Chamber I would say this has not been a very happy St. Patrick's Day for us. Most of us have been here a very long time and we have sat through many bills and as I think of the good Senator from Oxford, Senator Twitchell, as he nods in total agreement with me, I know that we should keep this short.

We are often times called upon to make difficult decisions and unfortunately at difficult times that are inconvenient. Really, I have to say that I admire all of you for perseverance through all of these various issues because so many people depend upon it.

Tonight as we did early this morning, we have to address an issue that probably very few people ever thought about. To be very candid I, on St. Patrick's Day, would not envision myself standing in the Senate Chambers dialoguing with my good Senator from Aroostook, Senator Collins. I would probably be home reading "Trinity" or having a few as we call it pops with my family and enjoying some fine corned beef and cabbage with my children and wife. Tonight I am called upon to harken back to the ancestors of the good Senator from Aroostook, Senator Collins and say, what would Michael Collins say of our good Senator. He would probably say, well he is a wee bit daffy and he would probably say that he has forgotten a bit from where his ancestors did come from and he is probably saying, well my good Senator Donald, did you recall your roots in the fine country of Ireland and I am sure the good Senator from Aroostook would say that he hasn't forgotten his roots, but he certainly remembers the fond memories that I am sure his grandparents and parents spoke to him of in terms of his ancestors. Today we are not here to address the romantic visions of Ireland, the beautiful ballads or the beautiful poetry that has so enthralled the people throughout the ages. Today we are here to address a very serious question. The State of Maine and specifically this Senate has before it a bill to enact a measure which would promote equality of opportunity in employment in Ireland.

I might state that this equality of opportunity is certainly enjoyed by every member of this Body and unfortunately, is not enjoyed by tens of thousands of people from Senator Collins' ancestral home or my

grandparents ancestral home. The key issue here today is, should we in fact as a state public body, endorse principles that enhance human dignity and development or should we as a state body choose to place economic considerations above principles of equality of opportunity and justice. I believe that the State of Maine and the citizens of Maine would want us to harken to the highest principles possible. They would want us to admit and acknowledge that today in Belfast and yesterday in Belfast, Northern Ireland, that fifty thousand people went to a single funeral. Mr. President, ladies and gentlemen of the Senate, I can think of no other country except possibly South Africa where tens of thousands of people attend funerals. This is carrying bereavement beyond the normal proportions of sorrow and concern for deceased loved ones. This is, in fact, a very public out cry for freedom and justice within a country. These people have called upon us to enact this legislation in order that they may have hope for their future. I might add that I have based my basic support for these principles on four primary principles. Number one, that I believe that every public policy that this state or nation enacts should be based on the enhancement of individual and community integrity. That it should enhance human dignity, that it should provide for equal opportunity for children and families to advance themselves without fear of prejudice, oppression, or bodily harm. Finally, I base it on the fact that I think any legitimate sovereign state such as our own great State of Maine when investing our portfolio dollars in companies should require them to adhere to basic principles of justice, equality and fairness that they must here in the United States. We as a state, we as legitimate representatives of people must export our democratic principles as well as our products. We should not be profiteering on the oppression of other people.

I know and I realize there is a principle and there are persons who have legitimate concerns that we may be interfering in the internal affairs of a foreign nation. That we may be interfering with the legitimate rights of our trustees to make economic decisions. But ladies and gentlemen of the Senate, this Legislative Body has already set a precedent with the South African resolution where we now will divest funds automatically from the country of South Africa and any businesses doing business in South Africa. Is there a qualitative difference between the oppression of the people in South Africa, the oppression and discrimination against the people of Ireland. Let me ask you, as I looked into the eyes of women and children and spoke with children in Northern Ireland, do you think any of those children who may have experienced discrimination feel any different than those young black children in Soweto, South Africa who are experiencing de jure discrimination? Shall we have our standard be that discrimination and oppression is enshrined in law, therefore, we must be against it, or shall we have as our standard that oppression and discrimination is imbued in children from day one because they are Catholic, or because they are Protestant, or because they are a woman? That is the qualitative difference between discrimination in South Africa and Northern Ireland because in fact a child in South Africa or a child in Northern Ireland cannot understand the subtle differences between hatred. They cannot discern the difference between pain of knowing they will not have hope for their future and their parents like many of us must get up everyday and know that their child must immigrate to Canada, Australia, Great Britain, or the United States of America

because they have no future in this country. Northern Ireland may have been the ancestral home of many americans, Southern Ireland may have been the ancestral home of many americans, but I assert to you most of us who have ancestors who have immigrated to the United States of America look at Ireland as Ireland, whether we are Catholic, Protestant, male or female. I think it is quite significant that the Governor of the State of Maine has indicated there is a possibility that this legislation may be vetoed. I call upon my Governor and I call upon all the people in this Senate to support this legislation, enact it because there is not and never will be a qualitative difference in discrimination between the South Africans and the people of Northern Ireland.

I might also add, Mr. President and ladies and gentlemen of the Senate, that I believe that if we are to uphold our oath of office and serve here in this Senate or in the other Body, that we must put the principles of equality and opportunity and justice for all at the top of our public policy agenda. I might also add even though the people, the Ambassador from the British Government and other members of the British higher offices have visited Maine and or sent their embassaries requesting that this legislation not pass. I might for in my own small part or as they say in Ireland, in my own wee part in this debate and dialogue there are many people, tens of thousands of people in Northern Ireland today hoping and wishing that someone outside of the ghettos of West Belfast, or the ghettos of the Bog Side will be listening to their cry for freedom, equality and justice. I ask you to listen, I implore you to support enactment of this legislation. Thank you.

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

Senator BERUBE: Thank you Mr. President and members of the Senate. I would like to reiterate my position on discrimination. I fully subscribe to any principle or resolution that would say that we are condemning discrimination of any sort anywhere in the world in any country in the world. However, my main opposition to this particular piece of legislation is the divestiture clause. We are using the State Retirement Fund as leverage. We could use other leverage. we could stop purchasing those lovely irish linens, or for those who enjoy other products there is irish whiskey. Personally with our own money from our own pocket we could stop purchasing these things.

The Maine State Retirement System Fund is paid by the taxpayers of our state who fund the employers share and the employees themselves. I feel that we are doing a disservice by starting to nibble at the fund and that is really my main reason for opposing this legislation.

I would like to mention that the state of New Jersey had done very well divesting. It is my understand that although New Jersey has divested of South African stock and they have passed the so-called MacBride principles, what they passed excluded the divestiture although it is my understanding that they are in the process to try and attempt to amend it into the current legislation. I would just like to take a brief moment to read from the State Investment Council Report of the Department of Treasury of New Jersey. They say and I quote "the transaction costs incurred by the pension funds by sale of targeted securities were \$5.4 million for the first six months and have aggregated to over \$26 million." They also say and I quote "on balance it appears that the effect of divestment of the stock returns of the pension funds has been negative." We can get away with it once probably when the stock

market is high, we can even probably get away with it a second time I don't know, but we are indeed creating precedents and if we continue to try and attempt to erode the fund it may not serve us well.

I cannot lay claim to irish ancestry. My current credentials are that one, I have a marvelous son-in-law that is irish and two, I have a delightful brand new granddaughter with the lovely Gaelic name of Meghan and it is spelled the Gaelic way. However, I fervently hope that when this legislation is enacted and I suspect that it will be, that it meets the goals of those who want it and that it doesn't come back to us in a negative way later on. Thank you.

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

Senator BUSTIN: Thank you Mr. President, men and women of the Senate. I have supported this Bill because I believe the MacBride Principles will promote human rights in Northern Ireland and I believe use of economic power is the most effective way to bring about change in corporate policy. Money is what drives the wheel of human endeavor. The Northern Ireland situation is five hundred plus years old and has not been resolved even in this enlightened age. I still support this Bill because to my mind it is the only one available to me at the moment that would honor my commitment to human rights. The M.S.E.A. has raised concerns about the means used in this Bill to achieve its goals. They have been criticized in this Body for holding fast to their position that the investment function of the Retirement System should be independent of political pressure. What I know is that when this board faced this decision they did so with great agony of conscience, knowing that it might be misinterpreted as opposition to the MacBride Principles. In fact, the M.S.E.A. Board and the Retirement Board of Trustees have voted to support MacBride Principles shareholders initiatives. This concern of both Boards has been to reconcile the need to protect the investment function of the Retirement System and the desire to positively address the Northern Ireland problem.

We have been told that divestment in 1992 will eliminate the opportunity to address the problem through shareholders initiatives. Possibly we have not explored fully enough the power of the shareholder initiative process. We have been told that this measure brings us further down the road of turning the investment function of the Retirement System into a political football. If this is the last divestment bill this concern will prove overstated. If history proves them correct we will certainly need to more thoroughly study the issues and alternatives of future proposals. Possibly we should consider economic boycotts or a more effective alternative. In any case, we will need a clear policy on how to treat these proposals that will not jeopardize our Retirement System.

In conclusion, I will cast my vote in favor of this Bill because it does represent a way to address an important human rights issue. But I cast this vote with full recognition and respect for the concerns that have been raised and of our need to be careful about how we address these issues in the future. Thank you.

On motion by Senator WEBSTER of Franklin, supported by a Division of at least one-fifth of the Members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator KERRY of York, that the Bill be PASSED TO BE ENACTED.

A vote of Yes will be in favor of ENACTMENT.

LEGISLATIVE HISTORY - HOUSE, MARCH 18, 1988

A vote of No will be opposed.  
Is the Senate ready for the question?  
The Doorkeepers will secure the Chamber.  
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BLACK,  
BRANNIGAN, BUSTIN, CLARK, DOW,  
DUTREMBLE, ERWIN, ESTES, GAUVREAU,  
GILL, KANY, KERRY, MATTHEWS, PEARSON  
RANDALL, THERIAULT, TUTTLE, USHER,  
WHITMORE, THE PRESIDENT - CHARLES P.  
PRAY

NAYS: Senators BERUBE, BRAWN, CAHILL,  
COLLINS, DILLENBACK, EMERSON, GOULD,  
LUDWIG, MAYBURY, PERKINS, SEWALL,  
TWITCHELL, WEBSTER

ABSENT: Senators None

22 Senators having voted in the affirmative and  
13 Senators having voted in the negative, with No  
Senators being absent, the Bill was PASSED TO BE  
ENACTED and having been signed by the President was  
presented by the Secretary to the Governor for his  
approval.

Senator BUSTIN of Kennebec was granted unanimous  
consent to address the Senate off the Record.

Senator BERUBE of Androscoggin was granted  
unanimous consent to address the Senate off the  
Record.

Senator KERRY of York was granted unanimous  
consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator KERRY of York, ADJOURNED  
until Friday, March 18, 1988, at 12:00 in the  
afternoon.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
47th Legislative Day  
Friday, March 18, 1988

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

Prayer by Father Sylvio Levesque, Saint Francis  
DeSales Catholic Church, Waterville.

The Journal of Thursday, March 17, 1988, was read  
and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on Economic Development  
reporting "Leave to Withdraw" on RESOLVE, to  
Establish a Study Commission on Maine Job Service  
Procedures (S.P. 833) (L.D. 2167)

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

Divided Report  
Tabled and Assigned

Majority Report of the Committee on Energy and  
Natural Resources on Bill "An Act to Revise the  
Energy Building Standards Act" (S.P. 93) (L.D. 247)  
reporting "Ought to Pass" in New Draft (S.P. 958)  
(L.D. 2539)

Signed:

Senators: USHER of Cumberland  
MATTHEWS of Kennebec  
LUDWIG of Aroostook

Representatives: MICHAUD of East Millinocket  
JACQUES of Waterville  
COLES of Harpswell  
HOLLOWAY of Edgecomb  
HOGLUND of Portland  
MITCHELL of Freeport

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

Signed:

Representatives: GOULD of Greenville  
DEXTER of Kingfield  
ANDERSON of Woodland  
LORD of Waterboro

Came from the Senate with the Majority "Ought to  
Pass" in New Draft Report read and accepted and the  
New Draft passed to be engrossed.

Reports were read.

Representative Michaud of East Millinocket moved  
that the House accept the Majority "Ought to Pass" in  
New Draft Report.

On motion of the same Representative, tabled  
pending his motion to accept the Majority "Ought to  
Pass" in New Draft Report and specially assigned for  
Monday, March 21, 1988.

Non-Concurrent Matter  
Later Today Assigned

Bill "An Act to Create a Noneconomic Damages  
Award Act" (H.P. 217) (L.D. 269) on which the Bill  
and accompanying papers were indefinitely postponed  
in the House on March 17, 1988.

Came from the Senate with the Minority "Ought to  
Pass" in New Draft under New Title Bill "An Act to  
Establish a Limit on Noneconomic Damages" (H.P. 1843)  
(L.D. 2523) Report of the Committee on Judiciary read  
and accepted and the New Draft passed to be engrossed  
as amended by Senate Amendment "A" (S-342) in  
non-concurrence.