

# MAINE STATE LEGISLATURE

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

**VOLUME V**

**SECOND REGULAR SESSION**  
March 20, 1990 to April 14, 1990  
Index

**HOUSE & SENATE LEGISLATIVE SENTIMENTS**  
December 7, 1988 to April 14, 1990

Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

Bill "An Act to Clean the Environment by the Reduction of Toxics Use, Waste and Release"

S.P. 1011 L.D. 2507

Tabled - April 12, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED

(Committee on ENERGY AND NATURAL RESOURCES suggested and ORDERED PRINTED.)

(In Senate, April 12, 1990, under suspension of the Rules, READ TWICE, without Reference to a Committee.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED.

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

JOINT ORDER - Ordering, the Joint Standing Committee on Appropriations and Financial Affairs report out such legislation as it determines necessary to increase the borrowing authority of the University of Maine System.

H.P. 1834

Tabled - April 12, 1990, by Senator PEARSON of Penobscot.

Pending - PASSAGE

(In House, April 12, 1990, READ and PASSED.)

(In Senate, April 12, 1990, READ.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE.

Off Record Remarks

On motion by Senator TITCOMB of Cumberland, ADJOURNED until April 13, 1990, at 9:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
50th Legislative Day  
Friday, April 13, 1990

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

Prayer by Major Walter Douglass, Salvation Army, Augusta.

The Journal of Thursday, April 12, 1990, was read and approved.

Quorum call was held.

COMMUNICATIONS

The following Communication:  
MAINE TECHNICAL COLLEGE SYSTEM  
Office of the Executive Director  
323 State Street  
Augusta, Maine 04330

April 9, 1990

The Honorable John L. Martin  
Speaker of the House  
State House Station #2  
Augusta, Maine 04333

Dear Speaker Martin:

I am pleased to submit the 1988-1989 Annual Report of the Maine Vocational-Technical Institute System. The report summarizes activities for the period July 1, 1988 to June 30, 1989.

This report marks our fourth year as an independent institution, and a pivotal point in the System's development. As you know, the 114th Legislature recently passed a bill that changed our name to the Maine Technical College System, an important step in our ability to define our role in Maine's education and training community.

Another highlight of the year was the approval of our \$20 million bond issue, which will enable us to make essential capital improvements at our six college campuses. This investment by the people of Maine will ensure our continued growth into the 1990's, and will make us an even more vital resource for our students and local communities.

I hope you will take a moment to review the summaries of highlights of the six campuses, as they illustrate our ongoing commitment to growth and professionalism, whether its through the development of new programs; the acquisition of new and more up-to-date equipment to keep pace with changes in technology; enhancing our links to local communities; or investments in the professional development of staff and faculty.

I hope you agree with me that the Maine Technical College System is in the midst of an exciting period of growth and development. I look forward to working with you to make this System one of the best in the nation.

Sincerely,  
S/John Fitzsimmons  
Executive Director

Was read and with accompanying report ordered placed on file.

The following Communication:  
DEPARTMENT OF CONSERVATION  
State House Station 22  
Augusta, Maine 04333  
April 11, 1990

John L. Martin  
Speaker of the House  
State House Station #2  
Augusta, Maine 04333  
Dear Speaker Martin:

Enclosed is a summary of the report "The Use and Potential Impact of Forestry Herbicides in Maine." This report was commissioned by the Department of Conservation to examine the use of forestry herbicides. The report summarizes, in an objective manner, information on use of herbicides in forest management. This study is part of the effort of the Department to assess the effect of various factors on the present and future forests of Maine.

The report addresses items of particular interest to the public regarding the use of herbicides in forest management, including the relationship of herbicides to water quality and wildlife. It also presents the characteristics of the principal herbicides used in the State. The report projects that future forest herbicide use likely will be stable at current levels. This is the first time a comprehensive report has been done with an emphasis on forestry herbicide use in Maine.

The enclosed document is a condensed version of a much larger (300+ page) technical document. We believe both documents will lead to a greater understanding and contribute a great deal to the continuing discussion of herbicide use in Maine. Additional copies of this report are available from the Maine Forest Service.

Sincerely,  
S/C. Edwin Meadows  
Commissioner  
Department of Conservation

Was read and with accompanying report ordered placed on file.

The following Communication: (S.P. 1010)  
114TH MAINE LEGISLATURE  
April 12, 1990

Senator Barry J. Hobbins  
Rep. Patrick E. Paradis  
Chairpersons  
Joint Standing Committee on Judiciary  
114th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Honorable John W. Benoit of Farmington for reappointment as Judge of the Maine District Court.

Pursuant to Title 4, MRSA Section 157, this nomination is currently pending before the Joint Standing Committee on Judiciary.

Sincerely,  
S/Charles P. Pray  
President of the Senate  
S/John L. Martin  
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

#### SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following items:

Recognizing:

the following retiring members of the House of Representatives: Carol M. Allen, Jeanne F. Begley, Gerard P. Conley, Jr., Ruth S. Foster, Linwood M. Higgins, Philip C. Jackson, Bertram Marston, John S. McCormick, Jr., Patrick K. McGowan, Orland G. McPherson, John McSweeney, Jeffrey N. Mills, Gregory G. Nadeau, Charles R. Priest, Eugene J. Paradis, Alexander Richard, Neil Rolde, Joseph G. Walker,

Alberta M. Wentworth and Passamaquoddy Indian Representative Joseph A. Nicholas, whose years of dedicated service and commitment to the democratic process exemplify the spirit of Maine and its citizens; (HLS 1343) by Speaker MARTIN of Eagle Lake. (Cosponsors: Representative GWADOSKY of Fairfield, Representative WEBSTER of Cape Elizabeth, Representative MAYO of Thomaston, Representative MARSANO of Belfast)

On motion of Representative Gwadosky of Fairfield, was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending passage and later today assigned.

Recognizing:

Edmund A. MacDonald, on the occasion of his final session covering the Maine Legislature. "Mac" retires as the elder statesman of the State House Press Corps to return to the newsroom after a career marked by unflinching coverage of veterans affairs, his founding membership in the New England Ski Press Association and his service as press officer at the 1960 and 1980 Winter Olympics; (HLS 1345) by Representative NADEAU of Lewiston. (Cosponsors: Senator GAUVREAU of Androscoggin, President PRAY of Penobscot, Speaker MARTIN of Eagle Lake)

On motion of Representative Gwadosky of Fairfield, was removed from the Special Sentiment Calendar.

On further motion of the same Representative, tabled pending passage and later today assigned.

Recognizing:

Patricia "Pat" Ellis, of Augusta, whose exceptional service and kindness to each and all during the past 8 years as manager of the State House Snack Bar typifies her generous spirit and friendly nature, and in extending our best wishes for success at the Department of Transportation; (HLS 1337) by Speaker MARTIN of Eagle Lake. (Cosponsors: Senator BUSTIN of Kennebec, Representative PARADIS of Augusta, Representative HICKEY of Augusta, Representative DAGGETT of Augusta)

On motion of Representative Nadeau of Saco, was removed from the Special Sentiment Calendar:

On motion of Representative Handy of Lewiston, tabled pending passage and later today assigned.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

#### REPORTS OF COMMITTEES

##### Unanimous Ought Not to Pass

Representative HIGGINS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Develop a Statewide Enhanced 9-1-1 Emergency Telephone System" (H.P. 527) (L.D. 712) reporting "Ought Not to Pass"

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

#### PASSED TO BE ENACTED

##### Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$9,000,000 for Construction of Water Pollution Control Facilities (S.P. 698) (L.D. 1836) (C. "A" S-703)

Was reported by the Committee on Engrossed Bills

as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 114 voted in favor of same and 11 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED  
Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$19,000,000 to Finance the Acquisition of Land for Public Purposes and Construction to Replace Churchill Dam (S.P. 741) (L.D. 1945) (C. "A" S-702)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 100 voted in favor of same and 19 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act Relating to the Whitewater Rafting Laws (S.P. 1005) (L.D. 2501) (S. "C" S-699; S. "A" S-695; H. "E" H-1119; H. "D" H-1118)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Authorize the Department of Marine Resources to Purchase, Lease or Lease-Purchase Facilities at McKown Point in Boothbay Harbor (S.P. 998) (L.D. 2465) (C. "A" S-701)

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

(At Ease)

The House was called to order by the Speaker.

**ORDERS OF THE DAY  
UNFINISHED BUSINESS**

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

The Chair laid before the House the first item of Unfinished Business:

Bill "An Act to Establish the Department of Child and Family Services" (EMERGENCY) (H.P. 1199) (L.D. 1666) (H. "B" H-1109 to C. "C" H-820)

- In Senate, Passed to be engrossed as amended by Committee Amendment "C" (H-820) as amended by House Amendment "A" (H-1008) and Senate Amendment "B" (S-672) thereto in non-concurrence.

TABLED - April 12, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be engrossed as amended by Committee Amendment "C" (H-820) as amended by House Amendment "B" (H-1109) thereto in non-concurrence.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed as amended by Committee Amendment "C" (H-820) as amended by House Amendment "B" (H-1109) thereto in non-concurrence and later today assigned.

The Chair laid before the House the second item of Unfinished Business:

Bill "An Act to Establish a Five-year Medical Liability Demonstration Project" (S.P. 782) (L.D. 2023)

- In Senate, Passed to be engrossed as amended by Senate Amendment "A" (S-683) in non-concurrence.

- In House, House Recessed.

TABLED - April 12, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

On motion of Representative Gwadosky of Fairfield, retabled pending further consideration and later today assigned.

The Chair laid before the House the third item of Unfinished Business:

Bill "An Act to Reduce Health Care Cost and Enhance Medical Care through Tort Reform" (S.P. 1006) (L.D. 2498)

- In Senate, Referred to the Committee on Judiciary.

TABLED - April 12, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Reference in concurrence.

On motion of Representative Gwadosky of Fairfield, retabled pending reference in concurrence and later today assigned.

The Chair laid before the House the fourth item of Unfinished Business:

JOINT ORDER - Relative to recalling H.P. 1779 L.D. 2446 and all its accompanying papers from the legislative files to the Senate (S.P. 1008)

- In Senate, read and passed.

TABLED - April 12, 1990 (Till Later Today) by Representative MICHAUD of East Millinocket.

PENDING - Passage in concurrence.

The SPEAKER: The pending question before the House is L.D. 2446 being recalled from the legislative files. Pursuant to the rules, a two-thirds vote of the members present and voting is necessary. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

88 having voted in the affirmative and 16 in the negative, the Order was passed in concurrence.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES  
Divided Report**

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Ensure Proper Oversight of State Spending (H.P. 1793) (L.D. 2459)

Signed:

Senators:

BRANNIGAN of Cumberland  
PEARSON of Penobscot  
POULIOT of Lewiston  
CHONKO of Topsham

Representatives:

RIDLEY of Shapleigh  
 CARTER of Winslow  
 MCGOWAN of Canaan  
 CARROLL of Gray  
 LISNIK of Presque Isle

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

Signed:  
 Senator: PERKINS of Hancock  
 Representatives: HIGGINS of Scarborough  
 FOSTER of Ellsworth  
 FOSS of Yarmouth

Reports were read.

On motion of Representative Carter of Winslow, the Majority "Ought to Pass" Report was accepted and the Resolution read once.

Under suspension of the rules, the Resolution was read the second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Edmund A. MacDonald, on the occasion of his final session covering the Maine Legislature. "Mac" retires as the elder statesman of the State House Press Corps to return to the newsroom after a career marked by unflinching coverage of veterans affairs, his founding membership in the New England Ski Press Association and his service as press officer at the 1960 and 1980 Winter Olympics; (HLS 1345) by Representative NADEAU of Lewiston. (Cosponsors: Senator GAUVREAU of Androscoggin, President PRAY of Penobscot, Speaker MARTIN of Eagle Lake) which was tabled earlier in the day and later today assigned pending passage.

Was read.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: It is with great honor that I sponsored this Joint Order on behalf of all of you and particularly the members from the Androscoggin County, Oxford and Franklin area. For 12 years, I have been covered by and worked with (in many ways) Ed MacDonald who has been reporting for over 35 some odd years. I promised I wouldn't get into dates too much.

Around here you make a lot of friends, you meet a lot of people and you are influenced by a lot of factors. Over the years, Ed has been an aggressive, honest, hard-hitting, but fair reporter. I have this tendency to go on and explain things a little longer than I should at times so the usual greeting I receive from Ed upon leaving the House at the end of a session is "Well Greg, what do you think about this session in 25 words or less?"

He has been, in many ways, an inspiration, someone who I think demonstrated the qualities that I think we all expect to see in other journalists and someone in his profession. His insight, his reporting, his coverage of all of us will certainly be missed. I think what we need to do is wish him a great deal of luck and hope that in the years to come that the words written by Ed MacDonald will continue to grace any publication that we may have the privilege to read because the knowledge and experience that he has attained over the years and the grace with which he has conducted himself is something I think you can all appreciate. I think we

all should recognize the accomplishments and service of Mac.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: I guess it was 12 years ago when I first met Ed, my how time flies when you are having fun. I was approached by Ed, he introduced himself and he said, "I am here to cover the State House." I had had a particularly rough day, I said, "I am a Republican and I have never gotten any coverage from your paper. If that policy continues, don't bother come near me whatsoever." Ed said, "I can assure you that won't be the case." Ed and I have been real good friends ever since. We haven't always agreed but whatever I told him was printed exactly the way I said the words to him. We are going to miss him around here.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I would be remiss this morning not to add my congratulations and best wishes to Ed MacDonald. He is a native son of Rumford, he graduated from Stevens High School. He began his career at the Rumford Falls Times and when he comes home to the VFW meetings he comes to the Post on Waldo Street in Rumford. Ed, we are very, very proud of you and we wish you well.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I think it is an honor and a privilege to have Ed MacDonald as a good friend. He is an excellent reporter. I enjoy Maine and I could also add that he does quote you exactly as you say, one thing that is remiss in some of the other reporters. I have enjoyed my association with him over the past ten years and wish him well in the future.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Ed MacDonald not only has a special place in my family's heart, but Ed MacDonald's father also was an extremely close friend of my immediate family. I think if there is anything that Ed MacDonald ought to be remembered by, besides what all you gracious people are giving him the accolades for, is his record of saying over and over again, "Don't say off the Record. If you don't want it printed, don't say it." Thank you for that bit of journalism Ed.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Men and Women of the House: I would like to take this opportunity to also wish Ed well in his retirement. Ed is a constituent of mine and I have known him for a long time. I do wish him well. I have enjoyed his professionalism and personal courtesy that he has shown to me. Thank you and good luck Ed.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I also want to commend Ed for his journalistic abilities here in the State House and the time that he has taken to refine the bills that have been before us concerning air quality. He knows how it feels for those who have difficulty in breathing and trying to carry out their duties and their pleasures and their recreation. We should all thank him for the time that he has taken

from his busy schedule to help us in the legislature do that.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Men and Women of the House: Ed is not dead, he is in the back of the chamber. This is beginning to sound like a series of eulogies. As I look up at the board and it says Edmund A. MacDonald on the occasion of his final session and I certainly hope that that is not prophetic at all.

I know when I come to the State House every day, I say, "Good morning Mr. MacDonald." He invariably says, "Mr. MacDonald!" I say, "Well Ed, my parents always told me to respect my elders." He says, "Gee, thanks a lot." But Ed always insisted on you calling his Ed. I called him Mr. MacDonald at least once a day to reassure him that he had my respect because that is the kind of individual that Ed is. He is an individual who really warranted respect and he commanded it just by his nature.

Ed is also known for his column that has graced the Lewiston papers for quite a number of years called Mainly Maine. I have a funny feeling, although Ed won't be covering the State House any longer, that we will probably have his phone calls reach us periodically to catch up on what is happening at the State House, we will probably find ourselves in print.

It is also kind of peculiar to have so many legislators expressing these laudatory statements about a member of the media who we are so quick to chastise from time to time.

I have got to say one thing about Ed MacDonald and his approach to reporting the news, aside from what has already been said about his fairness, one problem that I have with some members of the media is that they come to our public hearings for about five or ten minutes and then go back and write their story, never to be seen from again, but one thing about Ed MacDonald, when he commits himself to a story or covering an issue, particular a legislative public hearing, he is there from the beginning of it to the final gavel. I think he has to be commended for that.

I think when all of us finally make it to that legislative chamber in the sky, I am sure we will be able to look down at the corner table and we will know who will be sitting there, it will surely be Ed MacDonald that is covering us. Good luck Ed.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I am going to miss Ed MacDonald, he has been a wonderful reporter from Lewiston/Auburn covering this area and a gentleman to all of us. The price can sometimes, especially towards the end of a session, get to us and grind us down a little. With very few complaints, Ed has worked through some bad asthma and bronchitis. I have seen him gasping for air but sitting there listening to make sure he got the whole story in a hearing or a work session, especially when it involved our community. I think he has got the highest level of professionalism and he has shown that in what he sometimes worked through to cover us.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: Ed and I really got to know each other quite quickly. Ed has covered certain, shall I say "foamy" issues of mine in the Mainly Maine (what I call editorial column) and I just want to thank him for his editorials and his insight that

he has given the people of the area and the people of my constituency about that certain "foamy" issue in his Mainly Maine editorial. Thank you Ed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would be remiss if I hadn't gotten up on this. Although Ed does not cover my neck of the woods, Ed and I first became close friends back in the first part of the 113th Legislature when his room adjoined my room. As most of you know, I am one of the last ones to leave the State House every night. I would always go in and talk to Ed to find out what was going to be in the Lewiston paper the next day because Ed was there many nights late trying to do those things. We talked and he is the type of person where you wish he had written down everything that he knew because he told me things that, hopefully, he will have time now to sit down and write because some of the things that have taken place in this body and the opposite body really should be placed in a book so that everybody would know.

I would hope one of the things, as Representative Pines has said, that we remember about Ed MacDonald, he is one of the few people that Representative Pines and I are up here fighting for because of the problems that he has had. He has done a good job covering those particular issues, I think, without any bias. In future years when Representative Pines and I talk about these issues, please remember Ed MacDonald.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: I have had the opportunity to know Ed for six years and I consider maybe he is just changing his position from office with less traveling from Mechanic Falls to Lewiston instead of Mechanic Falls to Augusta because I know he is the type of man that is going to wear away and not rust away.

The SPEAKER: The Chair is pleased to welcome in the back of the Hall of the House, Ed MacDonald. (applause, the audience rising)

The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: I first became acquainted with Ed 41 years ago when he was working for the Rumford Fall Times and I was starting my teaching and coaching career at Dixfield High School. Ed covered the games at that time and I have known him for all these years and think nothing but good of him. I would like to offer my congratulations and best wishes at this time also.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Telow.

Representative TELOW: Mr. Speaker, Men and Women of the House: Ed, I want to say this to you, I have not gotten up and said any words during this session but for you, I have a special and deep regard. In the years I have known you, I think of the people that you and I have known back in the 60's and the outstanding work that you have done. May God bless you and take care of you. I think the world of you. I will be with you, I will think of you, bye Ed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Adams.

Representative ADAMS: Mr. Speaker, Men and Women of the House: In my first term, it has been my privilege to also know Ed MacDonald who I first met late one night, early last session, when I as an innocent freshman went down into the dark to see who was typing in the former state museum fish tank in

the Capitol basement and there found Ed MacDonald. He has been my friend ever since. We have shared many conversations about the trials and joys of journalism. It is a very high calling.

The purpose of journalism, H. L. Mencken once said, "was to afflict the comforted and comfort the afflicted." In all that Ed has done, he has shown his sympathy for the little guy and a dedication to the truth which has marked all those thousands of words he has typed out about this state and the people that he so loves. He is a consummate professional and he has a fine sense of humor. I think I find it appropriate in both senses, as no doubt would he, that in this his final day in this body when we take notice of him, his final appearance on our tote board has a misspelling in the final salutation. Congratulations Ed.

The SPEAKER: The Chair would like to make known a little known fact, Ed's father was actually a Democratic candidate for the United States Senate in 1946.

Subsequently, the Order was passed and sent up for concurrence.

The Chair laid before the House the following matter: Patricia "Pat" Ellis, of Augusta, whose exceptional service and kindness to each and all during the past 8 years as manager of the State House Snack Bar typifies her generous spirit and friendly nature, and in extending our best wishes for success at the Department of Transportation; (HLS 1337) by Speaker MARTIN of Eagle Lake. (Cosponsors: Senator BUSTIN of Kennebec, Representative PARADIS of Augusta, Representative HICKEY of Augusta, Representative DAGGETT of Augusta) which was tabled earlier in the day and later today assigned pending passage.

Was read.

The SPEAKER: The Chair is pleased to recognize Pat in the back of the hall. Welcome and good luck. (applause, the members rising)

The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to say, we wish you well Pat, we are going to miss you. You have been a wonderful friend. The Legislature's loss is Transportation's gain.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: Pat, I do want to wish you all the luck in the world too. You have been a joy to see in the coffee shop. Since you came from the County we have, every morning, chatted about what has been going on there and I have been able to keep in touch with you and your family. I am going to miss you greatly. I do wish you all the best.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: Pat, I want to wish you well. As I look at the sponsor of this item today, I see it is sponsored by the Speaker from Eagle Lake. What I am going to miss more than anything is -- and I can see now why the Speaker sponsored it, every morning as I came in, I would always check in with Pat to find out what time we would be going into session or what time we might be adjourning and she seemed to have more knowledge on some of this than some of the members, that is what I am going to miss. (applause)

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: It is with regret that we see Pat leave her station on the first floor. She has been a wonderful person, she has always leaned over backwards to be very courteous and kind and cooperative with all of us and we certainly will miss her.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: As a freshman legislator, I came to the State House on my first day and my first instinct was to grab a cup of coffee and I met someone, not only from the County, but from what I consider my home area. She is originally from Monticello and I know all her family and I am going to miss her for not being down there every morning.

The SPEAKER: Thank you Pat, thank you for being with us.

Subsequently, the Order was passed and sent up for concurrence.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 17 were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1783) (L.D. 2453) Bill "An Act to Require the State to Provide Full Funding for All Mandates Having an Impact on the Expenses of County and Municipal Governments" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1124)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Paper was passed to be engrossed as amended and sent up for concurrence.

(H.P. 1774) (L.D. 2442) Bill "An Act to Provide Funds for a Design Competition for the Construction of a New Supreme Judicial Court Facility in Augusta" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1125)

On motion of Representative Marsano of Belfast, was removed from Consent Calendar, First Day.

Report was read and accepted, the Bill read once. Committee Amendment "A" (H-1125) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

(H.P. 1763) (L.D. 2428) Bill "An Act to Make Supplemental Appropriations and Allocations and to Change Certain Provisions of the Law for the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (EMERGENCY) Committee on Appropriations and



Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1126)

(H.P. 1755) (L.D. 2418) Bill "An Act to Implement Certain Recommendations of a Subcommittee of the Joint Standing Committee on Appropriations and Financial Affairs" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1127)

(H.P. 1725) (L.D. 2384) Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1128)

(H.P. 1448) (L.D. 2017) Bill "An Act to Establish a Statewide System of School-to-community Transition Coordination Services for Handicapped Youth" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1129)

(H.P. 1396) (L.D. 1926) Bill "An Act to Create a Statewide Coordination Office for Suspected Child Abuse and Neglect Teams" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1131)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Papers were passed to be engrossed as amended and sent up for concurrence.

The following items appearing on Supplement No. 16 were taken up out of order by unanimous consent.

**REPORTS OF COMMITTEES**

**Unanimous Ought Not to Pass**

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Funding of the Bureau of Maine's Elderly" (H.P. 155) (L.D. 207) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds for the Southern Maine Child Development Clinic" (H.P. 1413) (L.D. 1965) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Improve the Staffing, Funding and Land Acquisition Process of the Land for Maine's Future Board" (H.P. 1410) (L.D. 1962) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act Preserving the Public Advocate Utility Assessment" (EMERGENCY) (H.P. 1402) (L.D. 1938) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Establish a System of Citizen Representatives for Persons with Severe and Prolonged Mental Illness" (H.P. 1401) (L.D. 1937) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Meet the Increasing Demand for Visits by Maternal and Child Health Care Nurses to the Homes of Multi-problem Families" (H.P. 1397) (L.D. 1933) reporting "Ought Not to Pass"

Representative RIDLEY from the Committee on Appropriations and Financial Affairs on Bill "An Act Relating to the Boarding and Clothing of Foster Care Children" (H.P. 972) (L.D. 1350) reporting "Ought Not to Pass"

Representative RIDLEY from the Committee on Appropriations and Financial Affairs on Bill "An Act

to Increase Funding for Lobster Hatcheries" (H.P. 1035) (L.D. 1446) reporting "Ought Not to Pass"

Representative RIDLEY from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds for Improved Juvenile Justice Services" (H.P. 1146) (L.D. 1589) reporting "Ought Not to Pass"

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide a Cost-of-living Adjustment for Residential Treatment of Emotionally Disturbed Children" (H.P. 687) (L.D. 939) reporting "Ought Not to Pass"

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Staffing of Child Development Workers" (H.P. 650) (L.D. 884) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Licensing Inspections of Boarding Care Facilities" (H.P. 1372) (L.D. 1903) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Establish a Franco-American Cultural Center at the University of Maine Lewiston-Auburn Campus" (H.P. 1359) (L.D. 1876) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds to Restock Bryant Pond in Aroostook County" (H.P. 1340) (L.D. 1857) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Funding for the Displaced Homemakers Program to Continue Rural Outreach, Employment and Training and Support Services for Maine Displaced Homemakers" (H.P. 1339) (L.D. 1856) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Technical Assistance for Schools with Autistic Students" (H.P. 1338) (L.D. 1855) reporting "Ought Not to Pass"

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Additional Community Alternatives to Mental Institutions" (H.P. 1337) (L.D. 1854) reporting "Ought Not to Pass"

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Emergency Funds for the Meals on Wheels Program" (H.P. 1317) (L.D. 1819) reporting "Ought Not to Pass"

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Home-based Care for the Elderly" (EMERGENCY) (H.P. 1315) (L.D. 1817) reporting "Ought Not to Pass"

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Medicaid-reimbursable Mental Health Services to Families with Infants and Toddlers" (H.P. 900) (L.D. 1257) reporting "Ought Not to Pass"

Representative MCGOWAN from the Committee on Appropriations and Financial Affairs on Bill "An Act to Ensure Payment of Reasonable Costs of Operating Community-based Facilities for the Mentally Retarded" (EMERGENCY) (H.P. 840) (L.D. 1172) reporting "Ought Not to Pass"

Representative MCGOWAN from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Family Support Services to Maine Families Who Choose to Care for Their Developmentally Disabled

Children at Home" (H.P. 805) (L.D. 1117) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

The following items appearing on Supplement No. 20 were taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES**

**Unanimous Ought Not to Pass**

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Divert Certain Indigent Offenders from Incarceration" (H.P. 1454) (L.D. 2028) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Fund the Marine Research Board's Grants Program" (H.P. 1445) (L.D. 2014) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Effective Follow-up for Wilderness Programs Required of Adjudicated Youth" (H.P. 1444) (L.D. 2013) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Ensure Comprehensive Services for Preschool Children with Severe or Multiple Handicaps" (H.P. 1426) (L.D. 1978) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act Regarding Sludge Dewatering" (EMERGENCY) (H.P. 1449) (L.D. 2018) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Emergency Assistance and Permanent Housing for the Homeless" (EMERGENCY) (H.P. 1446) (L.D. 2015) reporting "Ought Not to Pass"

Representative CARROLL from the Committee on Appropriations and Financial Affairs on Bill "An Act to Ensure the Quality of Care for Mentally Ill and Mentally Retarded Individuals in the State" (EMERGENCY) (H.P. 1419) (L.D. 1971) reporting "Ought Not to Pass"

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Maintain Current Funding Levels for Transportation Services Used by Recipients of Day Habilitation Services" (EMERGENCY) (H.P. 1468) (L.D. 2053) reporting "Ought Not to Pass"

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide More Adequate Funding for Contracted Human Service Programs" (EMERGENCY) (H.P. 1456) (L.D. 2030) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Continue Services for Homeless Youth in Cumberland County" (EMERGENCY) (H.P. 1510) (L.D. 2090) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

The following items appearing on Supplement No. 18 were taken up out of order by unanimous consent:

**PAPER FROM THE SENATE**

Bill "An Act to Clean the Environment by the Reduction of Toxics Use, Waste and Release" (S.P. 1011) (L.D. 2507)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill

read twice and passed to be engrossed as amended by Senate Amendment "A" (S-708).

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

Under suspension of the rules and without reference to any Committee, the Bill was read once.

Senate Amendment "A" (S-708) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time and passed to be engrossed as amended in concurrence.

**Ought to Pass**

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$4,500,000 for Acquisition of Certain Rail Lines, Rail Trackage Rights or Easements or Ancillary Rights and Interests for the Establishment, Preservation and Operation of a Rail System to Service Maine" (S.P. 1009) (L.D. 2504)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendment "A" (S-700).

Under suspension of the rules and without reference to any Committee, the Bill was read once.

Senate Amendment "A" (S-700) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time and passed to be engrossed as amended in concurrence.

**Non-Concurrent Matter**

Bill "An Act Regarding Municipal Shellfish Regulations" (H.P. 1533) (L.D. 2118) which was passed to be engrossed as amended by Committee Amendment "A" (H-887) as amended by House Amendment "A" (H-927) thereto in the House on March 16, 1990.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 21 was taken up out of order by unanimous consent:

**PASSED TO BE ENGROSSED WITHOUT REFERENCE TO COMMITTEE**

Resolve, Authorizing the Governor and the Atlantic Sea Run Salmon Commission to Enter into an Agreement with Edwards Manufacturing Company, Inc. (EMERGENCY) (H.P. 1837) (L.D. 2508) (Presented by Representative MARSH of West Gardiner) (Cosponsored by Representative CARTER of Winslow, Senator HOLLOWAY of Lincoln and Senator KANY of Kennebec)

(Committee on Energy and Natural Resources had been suggested)

Under suspensions of the rules, without reference to any committee, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 22 were taken up out of order by unanimous consent:

**CONSENT CALENDAR  
First Day**

In accordance with House Rule 49, the following items appeared on the Consent Calendar for the First Day:

(S.P. 766) (L.D. 1991) Bill "An Act to Expand the Protection and Advocacy Agency for Persons with Disabilities and Consolidate Funding" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-704)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

(S.P. 769) (L.D. 1994) Bill "An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-707)

On motion of Representative Gwadosky of Fairfield, was removed from Consent Calendar, First Day.

Report was read and accepted and the Bill read once. Committee Amendment "A" (S-707) was read by the Clerk.

On motion of Representative Mayo of Thomaston, tabled pending adoption of Committee Amendment "A" and later today assigned.

(S.P. 770) (L.D. 1995) Bill "An Act to Clarify the Laws Relating to Audit Reports, Audit Adjustments and Withholding State Subsidy" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-706)

(S.P. 973) (L.D. 2439) Bill "An Act to Increase the Bonding Limit for the Maine Court Facilities Authority" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-705)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Papers were passed to be engrossed as amended in concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

Reference is made to (S.P. 1004) (L.D. 2492) Bill "An Act to Reduce Costs to County and Municipal Government by Delaying the Implementation Dates of Certain State Mandates"

In reference to the action of the House on April 12, 1990, whereby it Insisted and Joined in a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative MICHAUD of East Millinocket  
Representative JACQUES of Waterville  
Representative LORD of Waterboro

Representative Rotondi of Athens was granted unanimous consent to address the House:

Representative ROTONDI: Mr. Speaker, Men and Women of the House: On April 7th, on Roll Call No. 236, L.D. 1725, I was here but was not recorded and I wish to be recorded as voting no.

(At Ease to Gong)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: (S.P. 769) (L.D. 1994) Bill "An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-707) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A."

Representative Melendy of Rockland offered House Amendment "A" (H-1132) to Committee Amendment "A" (S-707) and moved its adoption.

House Amendment "A" (H-1132) to Committee Amendment "A" (S-707) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: As I understand House Amendment "A", this would provide additional training for limited geographical areas in the state. It seems to me if we adopt this amendment, we are opening ourselves up to the ability to provide significantly additional resources to different areas around the state. For this reason, I oppose the adoption of this amendment. I would request a division.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I would request a roll call when this comes up.

The reason that I put this amendment in is the fact that in the City of Rockland, we have lost 235 jobs within the last six weeks. We were promised that there would be retraining funds but I continue to be told that there are no retraining funds. If there is a contingency account from which we could draw monies to help these people, to retrain them in jobs that are being lost in the fishing industry, I strongly urge your support for this to help the workers.

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

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

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, I would like to pose a question through the Chair.

I cannot seem to find Senate Amendment "A" (S-707) and I wonder if the Representative from Rockland could read that amendment?

Subsequently, Senate Amendment "A" (S-707) was read by the Clerk in its entirety.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Members of the House: My amendment is filing number H-1132, which adds an additional \$25,000 for the jobs in order for people to be retrained in the midcoast area.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Men and Women of the House: I wonder if the Clerk would also read that amendment so that we would know what that one is, please?

Subsequently, House Amendment "A" (H-1132) to Committee Amendment "A" (S-707) was read by the Clerk in its entirety.

On motion of Representative Carter of Winslow, tabled pending adoption of House Amendment "A" (H-1132) to Committee Amendment "A" (S-707) and later today assigned.

The following items appearing on Supplement No. 23 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Unanimous Ought Not To Pass**

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Adequate Salaries for Workers in Residential Treatment Facilities for Emotionally Disturbed Children" (S.P. 126) (L.D. 211)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Revise the Eligibility Requirements for Elderly Low-cost Drug Recipients" (EMERGENCY) (S.P. 183) (L.D. 340)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act To Provide Respite Care for Care Givers of Diagnosed Victims of Alzheimer's Disease" (S.P. 248) (L.D. 578)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Cost-of-living Increases to Homemaker Services Providers and to Appropriate Additional Funds to Equalize Homemaker Services Funding Statewide" (S.P. 257) (L.D. 647)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Expand Medicaid Eligibility to Children, Ages 5 to 8 Years, with Family Incomes Below 100% of Official Poverty Line" (S.P. 387) (L.D. 1032)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide A Cost of Living Increase for the Home-based Family Service System" (S.P. 443) (L.D. 1196)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Make Interim Adjustments and Establish a Prospective Reimbursement System for Boarding Care Facilities Serving Persons with Mental Retardation" (S.P. 570) (L.D. 1598)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Improve the Availability and Effectiveness of Youth and Family Services" (S.P. 578) (L.D. 1631)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Community-based Support for

Mental Health and Mental Retardation Clients" (S.P. 584) (L.D. 1646)

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

The following item appearing on Supplement No. 24 was taken up out of order by unanimous consent:

**PAPER FROM THE SENATE**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

April 13, 1990

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

In reference to the action of the Senate whereby the Senate Insisted and Asked for a Committee of Conference on Bill "An Act to Reduce Costs to County and Municipal Government by Delaying the Implementation Dates of Certain State Mandates" (S.P. 1004) (L.D. 2492).

Please be advised the President appointed the following:

Senator KANY of Kennebec  
Senator CLARK of Cumberland  
Senator CAHILL of Sagadahoc

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following item appearing on Supplement No. 25 was taken up out of order by unanimous consent;

**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act to Provide Funds for a Design Competition for the Construction of a New Supreme Judicial Court Facility in Augusta" (H.P. 1774) (L.D. 2442) (C. "A" H-1125)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: This L.D. 2442 really deals with language that suggests this legislature is enthusiastically in favor of the Supreme Court being built here in Augusta. A Resolve which was adopted last year, which was adopted under some curious circumstances and I don't mean to suggest that they were anything except routine curious circumstances as occasionally occurs in this House, but it provided language in one paragraph of the Resolve that said we are committed to having the Supreme Court built up here in Augusta. I am opposed to that, I have always been opposed to it. I promised myself when these matters came up that I would take the opportunity that existed to vote against them.

I noticed this matter this morning and asked that it be set aside on the Consent Calendar for the purposes of hoping that somebody would read this and that those of you who share my view that the Supreme Judicial Court of Maine stay in Portland will in fact stay there.

When the vote is taken on this, I would request the yeas and nays.

I would like to say briefly that it is my view that if we bring the Supreme Court building to Augusta, eventually all of the Supreme Court Justices

will live in Augusta rather than out in the various areas of the state where they presently do. It makes great sense to me that the Justice of the Supreme Judicial Court of Maine, sitting as either the Supreme Judicial Court or the Law Court, have an opportunity to live in their communities and to be members of their communities and I think it is in the best interests of the people of Maine that this not be adopted at this time.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Foster.

Representative FOSTER: Mr. Speaker, Men and Women of the House: First of all, I would like to thank Representative Marsano for giving me this opportunity to speak to you. For many years, I have led a crusade to bring the Supreme Court building to Augusta, Maine. Those of you who are new in the chambers have not heard the story of my bringing my grandson to Augusta and explaining to him the three branches of government, Executive, Judicial and Legislative. We visited with the Governor, he was a Page on the floor of the House and he said, "Where are the judges?" I said, "Jay, the judges are in Portland." He said, "I thought there were three equal branches of government." I said, "Jay, you pose a wonderful question to your grandmother."

I then started some research to find how many other states with their three branches of government did not house them in their own capital city and afford them the same facilities that we have. I found out there was one other state. Out of the 50, there were two states that do not have their judicial system in the capital city. I make a point when youngsters are in the building on their school tours to say, "Do you know where the Judiciary is?" They say, "What is the Judiciary?" I say to you, ladies and gentlemen of the House, if the Judiciary was in Augusta, Maine, they would know more about it, they would be more visible. I really believe with all my heart that it should be here.

I introduced a bill, being a freshman and young, and that is why I admire all of you when you stand in the House and speak up because I remember the days when I did that also, but the longer you are here, the more reticent you are to be as expressive, but I roared in with a bond issue to move the Supreme Court to Augusta, Maine and to float a bond issue for \$15 million. Needless to say, I was ahead of my time and probably out of place. Nonetheless, we put together a commission to study the move to Augusta. Representative Carter, who at that time I don't think was my biggest fan about the move, but became Chairman of the Committee and he and his committee were the ones that came out with the Resolve to put together a commission, to come together with a plan. When we did move the Supreme Court to Augusta, Maine, we would have a plan.

This group worked for two years on the plan that we have. It is interesting because, of all years, we would legislatively have to come out with a bond issue, which we didn't want to do but we did, and immediately killed it because this is not the year to come out with a bond issue to build a new Supreme Court building. What this Resolve does is to keep this commission alive so that if economic conditions are better during the reign of up to the 116th Legislature, we can resubmit a bond issue and you will have a chance to vote upon it -- whether you want to send it out to the public or not.

Representative Marsano does not want the Supreme Court in Augusta and he will have his chance to vote. He can vote here not to send it out to referendum and he can vote if and when it does go out to referendum.

The only thing that I am asking is that this report does not die because it has taken a long time, it has cost a lot of money and it is an excellent report. We are fortunate to have Dr. Michael Wong, who is the foremost planner of court planning in the United States. I met Dr. Wong in Montgomery, Alabama eight years ago when he was redoing the court house there and was flattered to think that he would even undertake a plan for the State of Maine.

I hope that when the vote is taken that you will vote to let this committee continue to submit whatever legislation they need and I will tell you there is no money involved and I thank you for your attention.

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

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

The SPEAKER: The pending question before the House is passage to be engrossed as amended by Committee Amendment "A" (H-1125). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 252

YEA - Adams, Aikman, Aliberti, Allen, Anderson, Ault, Bailey, Begley, Bell, Boutilier, Burke, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Curran, Daggett, Dellert, Dexter, Donald, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Foss, Foster, Garland, Graham, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Hichborn, Hickey, Higgins, Holt, Hussey, Hutchins, Jacques, Jalbert, Joseph, Ketover, Kil Kelly, Lebowitz, Libby, Lisnik, Look, Lord, Luther, Mahany, Manning, Martin, H.; Mayo, McGowan, McKeen, Melendy, Michaud, Murphy, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, P.; Paul, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Reed, Richard, Rolde, Rydell, Seavey, Sheltra, Simpson, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, D.; Swazey, Tammaro, Telow, Townsend, Tupper, Walker, Webster, M.; Wentworth, The Speaker.

NAY - Brewer, Butland, DiPietro, Gould, R. A.; Greenlaw, Hepburn, MacBride, Macomber, Marsano, Marsh, McCormick, McHenry, McPherson, Merrill, Mitchell, Moholland, Norton, Pederson, Richards, Skoglund, Strout, B.; Tracy, Whitcomb.

ABSENT - Anthony, Conley, Duffy, Hoglund, Jackson, LaPointe, Larrivee, Lawrence, Marston, McSweeney, Mills, Paradis, J.; Parent, Rand, Ridley, Rotondi, Ruhlin, Tardy.

Yes, 109; No, 23; Absent, 18; Vacant, 1; Paired, 0; Excused, 0.

109 having voted in the affirmative and 23 in the negative with 18 being absent and 1 vacant, the Bill was passed to be engrossed as amended and sent up for concurrence.

The following items appearing on Supplement No. 26 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Determine the Prevalence of Lyme Disease in Maine" (H.P. 1511) (L.D. 2091) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Resolve, Directing the Department of Environmental Protection to Establish a Clearinghouse for Information on Pollution Research, Control and Abatement (H.P. 1584) (L.D. 2196) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Implement the Training and Work Incentive Provisions of the Federal Family Support Act of 1988" (EMERGENCY) (H.P. 1586) (L.D. 2198) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Emergency Supplemental Funding to Maintain the Current Level of AIDS-related Community-based Services Provided through the AIDS Project" (EMERGENCY) (H.P. 1556) (L.D. 2156) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Address the Crisis Confronting Clients of the Training Programs Administered by the Bureau of Vocational Rehabilitation" (EMERGENCY) (H.P. 1526) (L.D. 2111) reporting "Ought Not to Pass"

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act to Amend the Maine Rainy Day Fund" (EMERGENCY) (H.P. 1698) (L.D. 2347) reporting "Ought Not to Pass"

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act to Dedicate Funds to Ensure Access to Health Care" (EMERGENCY) (H.P. 1743) (L.D. 2407) reporting "Ought Not to Pass"

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act to Reduce the Administrative Costs of State Government" (EMERGENCY) (H.P. 1796) (L.D. 2463) reporting "Ought Not to Pass"

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act to Implement Meaningful Legislative Oversight of State Finances" (H.P. 1794) (L.D. 2460) reporting "Ought Not to Pass"

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act to Amend the Laws Governing Submission of Bills with Supplemental Appropriations" (H.P. 1707) (L.D. 2356) reporting "Ought Not to Pass"

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds for Nonresidential Services and Sheltered Group Homes for Girls" (H.P. 1697) (L.D. 2346) reporting "Ought Not to Pass"

Representative POULIOT from the Committee on Appropriations and Financial Affairs on Bill "An Act Concerning Emergency Needs of Developmentally Disabled Persons and Mentally Retarded Persons" (H.P. 1618) (L.D. 2240) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

The following items appearing on Supplement No. 28 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate  
Augusta, Maine 04333

April 13, 1990

The Honorable John L. Martin  
Speaker of the House  
114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following upon the recommendation of the Joint Standing Committee on Education:

Robert A. Moore of Falmouth for appointment to the Maine Maritime Academy Board of Trustees.

Robert A. Moore is replacing Barbara Trafton.

Sincerely,  
S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Representative Handy of Lewiston was granted unanimous consent to address the House:

Representative HANDY: Mr. Speaker, Ladies and Gentlemen of the House: Eight days ago on April 5th, the Joint Standing Committee on Education had a public hearing on the confirmation of Robert A. Moore of Falmouth for appointment to the Maine Maritime Academy Board of Trustees. At that public hearing, as you all are familiar, when the Governor's representative presents a nominee, we have an opportunity to pose questions to that representative.

I would like to quote from the verbatim transcripts of that hearing for you today. These are relevant portions regarding the nomination of Mr. Moore and ascertaining information as to whom he is replacing and the process therein.

It was my question to Ms. Kim Russell, a Special Assistant to the Governor for appointments: Representative Handy: "It is my understanding that Mr. Moore is replacing former Senator Barbara Trafton. Did former Senator Trafton request an interest in being reappointed?" Ms. Russell's response, "She did not request anything to the administration or to the Chairman." Representative Handy, "She didn't? Do you have any knowledge of her possibly indicating the preference to be reappointed to anyone else?" Ms. Russell, "No."

It is unusual that this body make any comment on the nominations as posed by the Governor to any Joint Standing Committee but it saddens me to have to take this opportunity to point out to the members of the House and to the general public that I feel that the Joint Standing Committee on Education in this legislature has been lied to. Whether intentionally or unintentionally, Ms. Russell was not forthright with the Education Committee.

I point out the following, referring back to the verbatim transcript, I asked Ms. Russell, "Did former Senator Trafton express an interest in being reappointed?" Her answer, again, "She did not express anything to the administration or to the Chairman." I have evidence to the contrary that I would like to share with you.

First of all, although Ms. Trafton, the former Senator from Auburn, didn't express directly to the Governor her interest in being reappointed, she did follow the usual process, which was utilized months earlier by a current member of the Board of Trustees, Ms. Elizabeth Noyes, in notifying the Chair of the Board of Trustees, Chair Joseph Sewall. I would like to quote from Chairman Sewall's letter to the Governor and his endorsement of Senator Trafton to another term on the Maritime Academy Board of Trustees. This letter was sent to Sharon Miller in the Office of the Governor, dated January 24th. "Barbara has done an exceedingly conscientious, intelligent, and productive job as a trustee and, in my opinion, deserves to be reappointed. We seem to have gotten the Academy back on sound footing and its

continued successful programs depend so much on an involved and capable board. I hope you will agree with my reasoning on this matter."

Another Trustee, Mr. Warren Cook, submitted a letter to the Governor, dated March 13th. He says, "She is probably the most capable Trustee on the Board and is as committed as Ken Curtis to putting the Academy back on top. I appreciate the politics involved but, to me, this appointment should be above those issues. If it would be helpful, I would give her my seat because I feel so strongly about her capabilities. Education should be a top priority for the state and we need Barbara to lead the way."

Further, from Mr. William Haggett, another member of the Board of Trustees and also the Chairman and Chief Executive Officer of Bath Iron Works. To Governor McKernan in a letter dated March 8th, "My purpose in writing is to urge your reappointment of Barbara Trafton. From my observations, she is a top-notch Trustee, perhaps the most effective of the entire group. She is always pleasant and makes constructive inputs on every issue. Barbara has done far more than her fair share to help move MMA ahead. Losing her participation would be a real blow to the entire program."

I submit to you that both in the first question, Ms. Russell was less than truthful and her response to the second question, there again, another opportunity to respond directly to the committee but withheld information from the Joint Standing Committee on Education.

The issue here is not whether Senator Trafton should be reappointed, the issue is the process. In this business that we are in, I feel that the process is far more important than the outcome.

I have a daughter and a son at home, my son is eight months old and he will soon be learning the ways of life. My daughter is four but she understands that when she does something wrong, she has to pay recompense for that. When she lies or breaks a rule, she is put in the corner. Ms. Russell and those of you who would like to snicker, go right ahead, if you take lying lightly, go ahead, I don't. When someone lies to a Joint Standing Committee of this legislature, it affects the integrity of, not only that Joint Standing Committee of this legislature, but the people of the State of Maine and the process we are involved in. We cannot be expected to make informed, intelligent decisions when information is withheld. Ms. Russell, at the very least, owes the legislature and the people of Maine and the Joint Standing Committee on Education, a public apology.

She has not yet responded to a letter I have written her in response to my questions. She owes that to the committee as well.

Representative Webster of Cape Elizabeth was granted unanimous consent to address the House:

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I think all of us share the concern of the Representative from Lewiston, Representative Handy, that there be accurate information and that people speak accurately when they are talking on the public record. I did not hear anything in the remarks that Representative Handy made that indicated to me that Ms. Kim Russell misspoke the facts.

Perhaps there was something in the Joseph Sewall letter that I did not fully understand. I would like to ask him to read the letter in its entirety, please.

**COMMUNICATIONS**

The following Communication:

DEPARTMENT OF  
EDUCATIONAL AND CULTURAL SERVICES  
STATE HOUSE STATION 23  
AUGUSTA, MAINE 04333

April 11, 1990

The Honorable John L. Martin  
Speaker of the House  
State House Station 2  
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with the provisions of 20-A MRSA, Chapter 421, it is my duty to annually report to the Legislature and to the Governor a plan which assures, to the extent practicable, that Contract students return to practice their profession within the State. Therefore, it is my pleasure to transmit herewith the Annual Status Report prepared by the Advisory Committee on Medical Education which summarizes the Committee's activities and recommendations for the period January 1989 to December 1989.

Yours truly,  
S/Eve M. Bither  
Commissioner

Was read and with accompanying report ordered placed on file.

**PASSED TO BE ENACTED**

**Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$4,500,000 for Acquisition of Certain Rail Lines, Rail Trackage Rights or Easements or Ancillary Rights and Interests for the Establishment, Preservation and Operation of a Rail System to Service Maine (S.P. 1009) (L.D. 2504) (S. "A" S-700)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 96 voted in favor of same and 21 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Consolidate Funding of the Protection and Advocacy Agency for Persons with Disabilities (S.P. 766) (L.D. 1991) (C. "A" S-704)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following items appearing on Supplement No. 27 were taken up out of order by unanimous consent:

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

The following Bill was received and, upon the recommendation of the Committee on Reference of Bills, was referred to the following Committee, Ordered Printed and Sent up for Concurrence:

**Energy and Natural Resources**

Bill "An Act Regarding the Maine Environmental Protection Fund Air Emission Fee Schedule" (H.P.

1840) (L.D. 2511) (Presented by Representative DEXTER of Kingfield)

Ordered Printed.

Sent up for Concurrence.

**PASSED TO BE ENGROSSED  
WITHOUT REFERENCE TO COMMITTEE**

Bill "An Act to Extend the Sunset of Special Seasonal Liquor Stores" (H.P. 1838) (L.D. 2509) (Presented by Representative PLOURDE of Biddeford) (Cosponsored by Representative PRIEST of Brunswick) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

**PASSED TO BE ENGROSSED  
WITHOUT REFERENCE TO COMMITTEE**

Bill "An Act to Validate and Ratify a Vote of the Town of Gray Concerning the Gray Water District" (EMERGENCY) (H.P. 1839) (L.D. 2510) (Presented by Representative CARROLL of Gray) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

**CONSENT CALENDAR  
First Day**

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(S.P. 704) (L.D. 1842) Resolve, to Establish a Medicaid Plan for Children and Families (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-737)

There being no objections, under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

**PASSED TO BE ENACTED  
Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for the Restoration and Preservation of Historic Buildings and Improvements at State Park Facilities (H.P. 1381) (L.D. 1912) (C. "A" H-1122)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 97 voted in favor of same and 18 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

**Constitutional Amendment  
Later Today Assigned**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Ensure Proper Oversight of State Spending (H.P. 1793) (L.D. 2459)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative Carter of Winslow requested a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I stand again before you and I urge you to join me for the endorsement of this proposed Constitutional Amendment, which simply calls for good government by providing this body with the needed legislative oversight that we do not have. This is a very important tool for this legislative body.

I would like to remind you that we are, according to the Constitution, supposed to be three equal branches. Unfortunately, a part-time legislature with part-time legislators cannot be on the same equal footing as an Executive Branch or a Judicial Branch who are all full-time participants in the process. To accomplish our goals as part-timers and in an attempt to minimize the cost of the operation of state government, we piggyback on the facilities of the Executive Branch. I don't have to remind this body of the problems that we are experiencing in this session primarily because we didn't have a hand in estimating the revenues that we had to rely on. The revenue figures that we were presented, despite an attempt to correct those figures in the tail end of the last session by eliminating \$100 million, we still ended up \$210 million short because of faulty projections.

I am not saying that the Commission, if approved by the legislature and passed on to the citizens for ratification will correct what we have been through, but it would certainly give this body an opportunity to work the tools that it should have.

You have heard me complain, over and over again, by the frustration that I have experienced and I am sure that my colleagues on both sides of the aisle on the Appropriations Committee went through the same frustration I did. I think it was probably more difficult for my colleagues on the other side of the aisle than it was for me but, nevertheless, it has been a very tiring and frustrating session. It is very difficult to put together a budget when you don't have access to the proper information. If you don't ask the right questions, you don't get the right answers. You have to continuously prod and ask and prod and ask to get what you need, and even then, you are not sure you have the right information or not. For some reason, the bureaucrats that are across the parking lot in the other building and scattered around the city seem to think that, once we leave here, they can do what they want and what they please.

The greatest area that we experience is with federal funds. According to the current statutes, the Governor of this state has the authority to expend federal funds while we are not in session, create positions for a limited period of time until we come back. What invariably happens is that, while we are in session, a commissioner may come before our committee requesting the expenditure of General Fund monies to start a program to create some more



positions. The committee says "no." When we leave here, they go through the Governor, through the process, out comes a financial order, a position is created under federal funds and they are circumventing the wish of this body. This body alone sets the policy of this state. The Executive Branch is supposed to administer. That is where the equality is supposed to come in, three equal branches, Judicial, Legislative and Executive. Executive doesn't mean legislative, it means executive. They execute the policy that we set. Unfortunately, it is not working in that fashion.

We have run across some very disturbing discoveries during our deliberations in this last session. I can cite you numerous occasions where the work that should have been done was not done. The financial process was utilized to correct some blunders and those same blunders are repeated over and over again. The Appropriations Committee was having a subcommittee meeting dealing with other issues and they happened to be here in the State House and we received an emergency financial order from the Department of Human Services telling us, if we did not approve it, they could not meet the payroll or could not issue the checks that week that were due out for AFDC. This took place in the month of December. Fortunately, there was enough of us around that we gave it quick nod and it went on its way. We were assured that this would not be repeated. It was an oversight and would not be repeated again. Lo and behold, three months later, the same thing occurred again.

The legislative oversight that should be in place is not in place. We can merely act in an advisory capacity.

Last session, I tried my darndest to get an advisory commission set up but not to infringe on the rights of the Executive Branch to determine or estimate revenues. It was my intent to set up an advisory commission composed of members of both branches to join together and work to avoid what apparently was taking place because we had to adjust the revenue figures down by \$100 million before the tail end of the session last year. The word came back that the Governor was going to veto that bill. We were short of funds and, rather than waste my time in pursuing this, I let it go. What I was trying to do was avoid what they are doing in Washington.

In Washington, they have a Congressional Budget Office, an Office of Management and Budget -- they both estimate revenues and I dare say that both of them end up with faulty estimates, one is invariably on the high side, one is on the low side, then they set down at a table and negotiate and they end up with a negotiated level of estimated revenues. No wonder the federal government is in trouble with a huge deficit. I was trying to avoid the same dilemma but I was unsuccessful.

This time around, it is lack of information. We have been getting the run-around from the Executive Branch. We have had committee meetings monitored by members of the Executive Branch and whenever we were able to discover an area that might have some dollars available, lo and behold, out would come an amendment utilizing those savings for some different programs. This went on day after day, week after week, not once, not twice, but ten times over. You can imagine that that gets pretty frustrating, so much so that at one point, I simply adjourned the committee and gave the Executive Branch a deadline. Even that was not observed.

The committee sent a memo to each department through the Finance Office asking that they review each account to see if they could come up with

additional dollars to help us out after they had gone through their accounts to meet the Governor's requests. Back came the word that there was no savings available. They had exhausted all the savings that they could find. During our deliberations, we found another area, commissions, where there might be some possible savings. One particular commission had not requested any funds for this coming fiscal year, they simply transferred from the previous fiscal year into the following year, an amount of \$15,000 and all they had expended in the previous year was \$7,000. I tried to deappropriate part of those funds that were apparently and obviously not needed. The cry came back that I was picking on a particular commission so I relented, figuring that we visit this area and do it the way that the people believe it ought to be done. So, we passed the first part of the budget for fiscal FY'90, did not deal with the commission and, while we were working with FY'91, again we sent a memo to these commissions who needed funds to operate from the General Fund -- we asked them to revisit their accounts to see if they could find any savings. Back came the word that all that could be saved from that work was a lousy \$5,000.

We found many areas after prodding and pushing where you could shift General Fund positions on to federal positions or special revenue account positions freeing up General Fund dollars. That should have been done automatically by the bureaucrats but they don't do that unless they are really pushed because they use federal funds to play with. They even go so far as to create a position, they fabricate a position by using four different accounts. They use a portion of money from a special revenue account, a portion of money from federal fund accounts, a portion from the General Fund accounts and a portion from dedicated accounts and they create a position, a position that doesn't show up. They play games with the legislature and they are getting away with it but they are not really playing games with the legislature, they are playing games with the dollars of the taxpayers.

You would think that they would utilize common sense. We in the legislature don't know all the answers but it seems to me that common sense goes a long way but they don't seem to understand that.

Let me give you a stark prime example. The Governor's Job Training Contingency Account -- let me try to tell you how this came about -- our Constitution states that you cannot utilize deferment or not levy property taxes on anyone, everybody has to be treated equally so consequently, if you try to bring an industry in from out-of-state, you can't do them any favors by not levying the property tax. The first industry that wanted to locate into the state was Pratt & Whitney during Governor Longley's term. They devised a mechanism of job training for unusual, unforeseen and extraordinary circumstances. Whenever that takes place or whenever that took place, we read about it in the newspaper because it was extraordinary when you are using taxpayer dollars to help private industry. It is extraordinary especially if you are trying to circumvent the Constitution in the process by replacing what you are attempting to do by not levying property taxes.

The first initial fund, I believe, was around \$400,000. Pratt & Whitney located into the state, then the fund was expanded to accommodate General Electric and the fund now stands at \$1 million for job training development. I read about General Electric in the newspaper, I read about Pratt & Whitney and we in the committee were strapped looking for funds and the fact came to me that I haven't read

anything about this program in quite awhile, there must be a million dollars sitting in it. I went looking, I asked questions and back came the word that there might be quite a few dollars in it. I asked more questions, I wanted more specific answers and, instead of having quite a few dollars in it, there were only a few dollars left. I was even more curious. My answers were only being answered verbally except for a list. I got a list listing 13 firms and I ask you to join me and you be the judge.

This is the law the way it reads, "The Governor may allocate funds from such accounts in amounts not to exceed in total a sum of \$1 million to provide funds for any unusual, unforeseen, or extraordinary needs for state assistance in creating jobs by assisting and meeting the training requirements of labor intensive, new, or expanding industries." It is quite clear.

I got a list of 13 firms and out of those 13 firms, I think there are three, maybe four, that qualify in my mind for the original intent of why this particular legislation was put on the books. The first company they define as extraordinary -- "It is the only company of its type in the area." The second company, extraordinary, "This is the only company of its type in the area." The third company, this one I think is legitimate, this company closed its Wisconsin facility and transferred to Maine. No quarrel with this one. The next company, unusual, I think this one also qualifies, "Assistance training new employees was part of the incentive package that encourages a company to expand by opening a facility in Maine." Next company, extraordinary, "This is the only company of its type in the area." Next company, unusual, "This company has plants in other states and had identified through barriers doing business in Maine. There was the work of workers' compensation and a lack of assistance within the employee training." Unusual? You be the judge. Next company, unusual, "This assistance is part of the financial package as is needed to allow this company to demonstrate viability to learning institutions." I guess it is unusual. This is the one that really rubs me the wrong way, \$213,000. The firm that is listed here is owned by Maine people, two people, maybe three. They incorporated in Delaware because it was too expensive in Maine. Between the two of them, their assets are worth \$22,000 but it was agreed that they could get \$213,000 from this fund to leverage more money to create jobs. They were going to leverage or trying to leverage \$4 million -- tremendous. What a golden opportunity, I am surprised that none of us have taken advantage of it. It is a tremendous opportunity, you don't have to risk any of your money.

I could go on, there are a few more, they all fall into the same category except as I said, maybe three or four who could legally qualify.

Then I looked around, I have a list here and there are 41 different programs that we have put on the books to legitimately assist businesses who choose to locate or expand or build in the State of Maine, 41 different programs, not counting the one I just mentioned and not counting the one for half a million dollars that sits in (used to be the VTI, now are Technical Colleges) that account to do the same thing that this program does but there is a slight difference. The program that the Technical Colleges have is a loan that has to be repaid. The Governor's Contingency Account is a grant -- now who in his right mind would take out a loan when you can get a grant?

Common sense would tell you that something is drastically wrong here. I asked the people who are

involved in this, "How does one find out about this program? I have never seen it in the newspaper, never been advertised?" I got the answer, "It was done by word of mouth." Isn't that tremendous? If you happen to be in the right circles, move around with the right people, you hear about this program and I suspect if you probably make the proper contributions, you hear about this program. Otherwise, your recourse is one of these 41 where you have to pay it back.

You know when I put the program through here to promote economic development titled "Pine Tree Development Fund", it provides a grant of \$5,000, tops, matching grant, dollar for dollar, and the hoops and the obstacle course that the people had to go through to accomplish this, boggles the imagination. You have seen the reception we got. The first appropriation was for \$50,000 and I couldn't believe the reaction, but the work and the hoops that I had to go through to convince my colleagues on the Appropriations Committee, I am not going to tell you about. I managed to convince them that this was a pilot project, we had a sunset on it, we were going to revisit it, we were going to see if it worked because it was a grant program. \$50,000 measly dollars. When you compare \$50,000 to a million -- I don't know what kind of applications they go through to get a \$213,000 grant but I would imagine, if they went through any program at all, that somebody would have discovered that these people don't own hardly any assets that one could fall back on. \$22,000 -- you go to a bank and they would laugh at you. No wonder they needed \$213,000 to demonstrate viability to a lending institution. It is unbelievable, it really is unbelievable. I wouldn't have stumbled on this under normal conditions. We were strapped and I was looking and I guess I was really looking hard because I came up with some other areas where we could save money. I offered the Governor one but he rejected it. That is his prerogative, but I don't think we should allow this type of thing to continue, we are supposed to be an equal branch. Either we appropriate the funds to set up our own shop and get into the same condition that they experience in Washington or create a constitutional amendment and do it the proper way.

I would urge you for the sake of good government and the obvious need for legislative oversight that we send this out to the people.

Subsequently, on motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and later today assigned.

The Chair laid before the House the following matter: Special Sentiment -- Recognizing the following retiring members of the House of Representatives: Carol M. Allen, Jeanne F. Begley, Gerard P. Conley, Jr., Ruth S. Foster, Linwood M. Higgins, Philip C. Jackson, Bertram Marston, John S. McCormick, Jr., Patrick K. McGowan, Orland G. McPherson, John McSweeney, Jeffrey N. Mills, Gregory G. Nadeau, Charles R. Priest, Eugene J. Paradis, Alexander Richard, Neil Rolde, Joseph G. Walker, Alberta M. Wentworth and Passamaquoddy Indian Representative Joseph A. Nicholas, whose years of dedicated service and commitment to the democratic process exemplify the spirit of Maine and its citizens; (HLS 1343) by Speaker MARTIN of Eagle Lake. (Cosponsors: Representative GWADOSKY of Fairfield, Representative WEBSTER of Cape Elizabeth, Representative MAYO of Thomaston, Representative MARSANO of Belfast) which was tabled earlier in the day and later today assigned pending passage.

Was read.

The SPEAKER: The Chair would request that as a member's name is called that you will record yourself on the board and stand.

The CLERK:

Carol M. Allen of Washington, a member for 8 years. (applause)

Jeanne F. Begley of Waldoboro, a member for 6 years. (applause)

Gerard P. Conley, Jr., of Portland, a member for 4 years. (applause)

Ruth S. Foster of Ellsworth, a member for 10 years. (applause)

Linwood M. Higgins of Scarborough, a member for 16 years. (applause)

Philip C. Jackson of Harrison, 14 years, 12 in the House and two in the Senate. (applause)

Bertram Marston of Oakland, two years. (applause)

John S. McCormick, Jr. of Rockport, two years. (applause)

Patrick K. McGowan of Canaan, 10 years. (applause)

Orland G. McPherson of Eliot, 14 years. (applause)

John McSweeney of Old Orchard Beach, 12 years. (applause)

Jeffrey N. Mills of Bethel, 8 years. (applause)

Gregory G. Nadeau of Lewiston, 12 years. (applause)

Eugene J. Paradis of Old Town, 12 years. (applause)

Charles R. Priest of Brunswick, 6 years. (applause)

Alexander Richard of Madison, 10 years. (applause)

Neil Rolde of York, 16 years. (applause)

Joseph G. Walker of Norway, 6 years. (applause)

Alberta M. Wentworth of Wells, 12 years. (applause)

The SPEAKER: The Chair would point out for those of you who may not have been counting that the total number of years for those members who are leaving us voluntarily is 180 legislative years. (applause, the members rising)

Subsequently, the Order was passed and sent up for concurrence.

By unanimous consent, was sent forthwith to the Senate.

The following items appearing on Supplement No. 29 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Restructure the Long-term Care Ombudsman Program" (S.P. 696) (L.D. 1834)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Preserve Home-based Care Services for Maine's Elderly Citizens" (EMERGENCY) (S.P. 706) (L.D. 1844)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Appropriate Funds for Services to Homeless Adolescents" (S.P. 707) (L.D. 1845)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Funds for the Maine Head Injury Foundation" (S.P. 709) (L.D. 1886)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Ensure That Children up to 5 Years of

Age with Special Needs Receive Services to Address Their Treatment Needs" (S.P. 725) (L.D. 1900)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Fund Sex Offender Treatment in Maine's Correctional Facilities" (EMERGENCY) (S.P. 728) (L.D. 1927)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Funds to Enhance the Service Corps of Retired Executives Organization" (S.P. 729) (L.D. 1928)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Resolve, to Establish Demonstration Sites for Adult Day Care Programs for Hospital Patients Awaiting Placement in Nursing Homes (S.P. 740) (L.D. 1944)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Emergency Shelter Services to Runaway and Homeless Youth" (S.P. 745) (L.D. 1949)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Expand Eligibility for the Elderly Low-cost Drug Program" (S.P. 752) (L.D. 1960)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Enhance Access to Prenatal Care in Underserved Areas" (EMERGENCY) (S.P. 758) (L.D. 1983)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Funds for Smoking and Substance Abuse Treatment for the Women, Infants and Children Program" (S.P. 772) (L.D. 1997)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Facilitate Access to Adaptive Equipment for Persons with Long-term Disabilities" (S.P. 789) (L.D. 2035)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Appropriate Funds for Alternatives to Juvenile Detention" (S.P. 817) (L.D. 2093)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Improve the Standard of Living of Children from Low-income Families" (S.P. 828) (L.D. 2136)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Funding for Volunteer Literacy Services for Maine Citizens" (S.P. 831) (L.D. 2139)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Resolve, to Promote Community-based Volunteerism in Defense of the Environment (S.P. 839) (L.D. 2152)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Additional Funds for the Public Advocate and Continue the Public Advocate Utility Assessment" (EMERGENCY) (S.P. 862) (L.D. 2211)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Funds for Pay Increases to Employees of Community-based Service Agencies for the Mentally Retarded" (S.P. 911) (L.D. 2319)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide for Annual Increases in the Aid to Families with Dependent Children Standard of Need" (EMERGENCY) (S.P. 963) (L.D. 2430)

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

(At Ease)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

Resolve, Creating a Blue Ribbon Commission to Study the Most Effective Way to Provide Services to Children and Families (EMERGENCY) (H.P. 38) (L.D. 38) which was Finally Passed in the House on February 7, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-739)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Provide for State Sharing of Certain Minor Capital Costs (EMERGENCY) (S.P. 82) (L.D. 83) which was Passed to be Enacted in the House on March 27, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (S-587)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement 4 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act Concerning Out-of-state Service for Members of the Maine State Retirement System (S.P. 268) (L.D. 696) which was Passed to be Enacted in the House on February 26, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-494)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Provide Needed Services Identified by the Task Force on Incapacitated and Dependent Adults, and Required by the United States Omnibus Budget Reconciliation Act of 1987 (H.P. 691) (L.D. 943) which was Passed to be Enacted in the House on February 1, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (H-733)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Require the Department of Human Services to Set Child Welfare Fee-for-service Rates Based on Yearly Negotiations with Private Nonprofit

Community Residential Treatment Providers (H.P. 744) (L.D. 1027) which was Passed to be Enacted in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (H-829)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act Concerning Educational Enhancement (H.P. 762) (L.D. 1066) which was Passed to be Enacted in the House on March 27, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (H-896) as amended by House Amendment "A" (H-959) thereto)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 6 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Provide Adjustments in the Educational Funding Formula (H.P. 836) (L.D. 1168) which was Passed to be Enacted in the House on April 6, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (H-1053)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Assure Access to Nutrition Programs for Kindergarten and Part-day Students (H.P. 882) (L.D. 1226) which was Passed to be Enacted in the House on February 26, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-736) as amended by House Amendment "B" (H-781) thereto)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 7 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Revise the Medical Examiner Act (H.P. 905) (L.D. 1262) which was Passed to be Enacted in the House on March 14, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (H-788) as amended by House Amendment "A" (H-885) thereto)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Create the Maine Family Development Foundation (EMERGENCY) (H.P. 1226) (L.D. 1698) which was Passed to be Enacted in the House on March 1, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (H-787)

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 8 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**  
**Non-Concurrent Matter**

An Act to Encourage Air Transportation to Designated Locations in Maine (S.P. 665) (L.D. 1778) which was Passed to be Enacted in the House on January 16, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-467))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

An Act Regarding Continuing Education for Administrators of Boarding Homes (H.P. 1374) (L.D. 1905) which was Passed to be Enacted in the House on March 1, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-784))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 9 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**  
**Non-Concurrent Matter**

An Act Requiring the State to Pay a Portion of the Health Insurance Premium for Dependents of Retired State Employees (H.P. 1411) (L.D. 1963) which was Passed to be Enacted in the House on March 5, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-804))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, to Require a Comprehensive Study to Equalize Maine State Retired Teachers Health Insurance Premium Payments (EMERGENCY) (H.P. 1417) (L.D. 1969) which was Finally Passed in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-839))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 10 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**  
**Non-Concurrent Matter**

An Act to Extend and Amend the Authorization for the Maine High-Risk Insurance Organization (EMERGENCY) (H.P. 1425) (L.D. 1977) which was Passed to be Enacted in the House on March 29, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-980))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Require the State to Pay a Portion of Retired State Employees' Medicare Costs (S.P. 759)

(L.D. 1984) which was Passed to be Enacted in the House on March 5, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-516))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 11 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**  
**Non-Concurrent Matter**

An Act to Purchase the Development Rights to Farmland (H.P. 1545) (L.D. 2130) which was Passed to be Enacted in the House on March 22, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-911))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Increase the Capacity of the State to Provide Mental Health Services (S.P. 861) (L.D. 2210) which was Passed to be Enacted in the House on March 16, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-557))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 12 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**  
**Non-Concurrent Matter**

Resolve, Authorizing the Director of the Bureau of Public Improvements to Sell the Maine Criminal Justice Academy Campus in Waterville, Maine (S.P. 872) (L.D. 2234) which was Finally Passed in the House on March 12, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-548))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, to Create a Pilot Project for a Substance Abuse Halfway House for Pregnant Women and Mothers with Young Children (H.P. 1647) (L.D. 2280) which was Finally Passed in the House on March 27, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-937))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 13 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**  
**Non-Concurrent Matter**

An Act to Help Reduce the Incidence of Breast Cancer Mortality in the State and to Revise the Laws Relating to the Mandated Benefits Advisory Commission (S.P. 903) (L.D. 2297) which was Passed to be Enacted in the House on April 6, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-645))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, Directing the Department of Human Services to Develop a Poison Warning System (S.P. 915) (L.D. 2321) which was Finally Passed in the House on March 19, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-572))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 14 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Implement the Recommendations of the Court Jurisdiction Study (H.P. 1682) (L.D. 2328) which was Passed to be Enacted in the House on April 6, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-1077))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Promote the Well-being and Rehabilitation of Children in Need of Care, Treatment or Shelter (H.P. 1761) (L.D. 2426) which was Passed to be Enacted in the House on March 27, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-938))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 15 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

Resolve, to Reauthorize the Commission to Evaluate the Adequacy of the Aid to Families with Dependent Children Need and Payment Standards (S.P. 964) (L.D. 2431) which was Finally Passed in the House on March 29, 1990.

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, to Establish a Select Committee on Comprehensive Tax Reform (EMERGENCY) (S.P. 999) (L.D. 2466) which was Finally Passed in the House on April 7, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-667))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, Creating a Commission on Adult Sentencing (EMERGENCY) (H.P. 1801) (L.D. 2471) which was Finally Passed in the House on April 10, 1990.

(Having previously been passed to be Engrossed as amended by House Amendment "A" (H-1099) and Senate Amendment "A" (S-654))

Came from the Senate, the Bill and accompanying papers Indefinitely Postponed in non-concurrence.  
The House voted to recede and concur.

The following items appearing on Supplement No. 30 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Provide for Base-year Revisions for Intermediate Care Facilities for the Mentally Retarded (H.P. 250) (L.D. 362) which was Passed to be Enacted in the House on March 12, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-813) as amended by Senate Amendment "A" (S-554) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-813) as amended by Senate Amendment "B" (S-709) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act Creating an Educational Bonus for Affordable Housing, a Low-income Housing Tax Credit and a Fuel Assistance Reserve Fund (H.P. 332) (L.D. 451) which was Passed to be Enacted in the House on March 23, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (H-908) as amended by House Amendment "A" (H-939) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "B" (H-908) as amended by Senate Amendment "A" (S-710) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 31 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Amend County Jail Transfers and the Community Corrections Laws (S.P. 277) (L.D. 723) which was Passed to be Enacted in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "B" (S-519) as amended by Senate Amendment "A" (S-537) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "B" (S-519) as amended by Senate Amendment "B" (S-711) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, to Study the Use of Herbicides (EMERGENCY) (S.P. 700) (L.D. 1838) which was Finally Passed in the House on February 12, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-480))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-480) as amended by Senate Amendment "A" (S-717) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 32 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Facilitate the Admission and Treatment of Involuntary Patients by Community-based Mental Health Institutions (H.P. 1336) (L.D. 1853) which was Passed to be Enacted in the House on April 6, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-986) as amended by House Amendment "A" (H-1037) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-986) as amended by House Amendment "A" (H-1037) and Senate Amendment "A" (S-718) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Amend the Laws Relating to the Purchase of Military Service Credits by Members of the Maine State Retirement System (H.P. 1346) (L.D. 1863) which was Passed to be Enacted in the House on March 2, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-796)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-796) as amended by Senate Amendment "A" (S-719) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 33 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Permit Changes in the Charter of the City of Ellsworth School District (S.P. 720) (L.D. 1895) which was Passed to be Enacted in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-531)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-531) as amended by Senate Amendment "A" (S-720) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Amend the Counseling Licensing Laws (S.P. 730) (L.D. 1929) which was Passed to be Enacted in the House on April 6, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-640)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-640) as amended by Senate Amendment "B" (S-721) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 34 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Provide Access to Preventive Dental Care Services to Adults Eligible for Medicaid (H.P. 1398) (L.D. 1934) which was Passed to be Enacted in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-831) as amended by House Amendment "A" (H-861) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-831) as amended by Senate Amendment "A" (S-712) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Establish Coastal Watershed Districts (H.P. 1438) (L.D. 2008) which was Passed to be Enacted in the House on February 20, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-751)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-751) as amended by Senate Amendment "A" (S-722) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 35 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act Relating to Services to Infants and Young Children, Ages 0 through 5, Who Are Handicapped or at Risk for Developmental Delay (S.P. 805) (L.D. 2068) which was Passed to be Enacted in the House on April 6, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-592) as amended by House Amendment "A" (H-1032) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-592) as amended by House Amendment "A" (H-1032) and Senate Amendment "B" (S-723) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Expand and Extend the Maine Managed Care Insurance Plan Demonstration Project (EMERGENCY) (H.P. 1509) (L.D. 2089) which was Passed to be Enacted in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-823)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-823) as amended by Senate Amendment "A" (S-724) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 36 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act to Amend and Improve the Education Laws of Maine (S.P. 830) (L.D. 2138) which was Passed to be Enacted in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-534)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-534) as amended by Senate Amendment "A" (S-725) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Amend the Percent for Art Act (S.P. 834) (L.D. 2142) which was Passed to be Enacted in the House on March 5, 1990. (Having previously been

passed to be Engrossed as amended by Committee Amendment "A" (S-521) and Senate Amendment "A" (S-528)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-521) and Senate Amendments "A" (S-528) and "B" (S-726) in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 37 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE  
Non-Concurrent Matter**

Resolve, to Study Threats to Maine Lakes (EMERGENCY) (S.P. 841) (L.D. 2160) which was Finally Passed in the House on March 1, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-503)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-503) as amended by Senate Amendment "A" (S-727) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Create the Maine Coast Environmental Trust Fund (H.P. 1589) (L.D. 2201) which was Passed to be Enacted in the House on March 5, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-811)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-811) as amended by Senate Amendment "A" (S-728) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 38 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE  
Non-Concurrent Matter**

An Act to Clarify the Role of the Board of Environmental Protection (H.P. 1602) (L.D. 2214) which was Passed to be Enacted in the House on April 7, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-950) as amended by House Amendment "A" (H-1040) thereto and Senate Amendment "A" (S-665)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-950) as amended by House Amendment "A" (H-1040) and Senate Amendment "B" (S-716) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, Establishing the Commission to Assess the Impact of Increased State Spending on the University of Maine System (EMERGENCY) (H.P. 1637) (L.D. 2270) which was Finally Passed in the House on March 29, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-928) as amended by House Amendment "A" (H-998) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-928) as amended by House Amendment "A" (H-998) and Senate Amendment "A" (S-729) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 39 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE  
Non-Concurrent Matter**

An Act to Create Community Restitution Centers (H.P. 1640) (L.D. 2273) which was Passed to be Enacted in the House on March 29, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-1002)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1002) as amended by Senate Amendment "A" (S-730) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Establish the Office of Substance Abuse (S.P. 909) (L.D. 2312) which was Passed to be Enacted in the House on April 10, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-639) as amended by House Amendment "B" (H-1102) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-639) as amended by Senate Amendment "B" (S-713) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 40 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE  
Non-Concurrent Matter**

An Act to Provide Greater Opportunities for Orphans and Foster Children (H.P. 1685) (L.D. 2333) which was Passed to be Enacted in the House on March 29, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-1010)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1010) as amended by Senate Amendment "A" (S-731) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Improve the Job Opportunities Zone Act (EMERGENCY) (H.P. 1690) (L.D. 2340) which was Passed to be Enacted in the House on March 29, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-1003) as amended by House Amendment "A" (H-1011) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1003) as amended by House Amendment "A" (H-1011) and Senate Amendment "A" (S-732) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 41 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE  
Non-Concurrent Matter**

An Act to Promote Equity of Opportunity for Women in Administrative Positions in the Public School System (H.P. 1692) (L.D. 2342) which was Passed to be Enacted in the House on March 29, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-974)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-974) as amended by Senate Amendment "A" (S-714) thereto in non-concurrence.

The House voted to recede and concur.



**Non-Concurrent Matter**

An Act Concerning the Carrying of Firearms and Firearms Safety Programs (EMERGENCY) (H.P. 1737) (L.D. 2398) which was Passed to be Enacted in the House on April 5, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-1030)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1030) as amended by Senate Amendment "A" (S-733) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 42 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

Resolve, to Establish a Model Coordinated Response System for Child Abuse Referrals in Penobscot and Piscataquis Counties (EMERGENCY) (H.P. 1752) (L.D. 2415) which was Finally Passed in the House on April 6, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-956) as amended by House Amendment "A" (H-1034) thereto and House Amendment "A" (H-970)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-956) as amended by Senate Amendment "A" (S-715) and House Amendment "A" (H-1034) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Resolve, to Direct the Department of Human Services to Develop a Proposal to Adequately Address the Housing Needs of Aid to Families with Dependent Children Recipients (S.P. 962) (L.D. 2429) which was Finally Passed in the House on April 4, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-627)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-627) as amended by Senate Amendment "A" (S-734) thereto in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 43 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

**Non-Concurrent Matter**

An Act Relating to Correctional Policy (H.P. 1814) (L.D. 2486) which was Passed to be Enacted in the House on April 9, 1990. (Having previously been passed to be Engrossed as amended by Senate Amendment "B" (S-673)

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "B" (S-673) as amended by Senate Amendment "A" (S-735) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 44 was taken up out of order by unanimous consent:

**COMMUNICATIONS**

The following Communication:

DEPARTMENT OF LABOR  
Bureau of Labor Standards  
State House Station #45  
Augusta, Maine 04333

April 13, 1990

The Honorable John L. Martin  
Speaker of the House  
State House Station #2  
Augusta, ME 04333-00002

Dear Speaker Martin:

We are pleased to submit to the 114th Legislature the second Annual Report on the Status of the Maine Workers' Compensation System pursuant to Public Law 1987, Chapter 599. This document summarizes the results of data collection by the three agencies involved and is intended to present a profile of the workers' compensation system including costs, administration, adequacy, and an evaluation of the entire system.

Like its predecessor, this report is organized into three sections. The report itself, however, is a cooperative effort.

Sincerely,

S/ Joseph A. Edwards

Superintendent Bureau of Insurance

S/ William A. Peabody

Acting Director Bureau of Labor Standards

S/ Ralph L. Tucker

Chairman Workers' Compensation Commission

Was read and with accompanying report ordered placed on file.

Representative Mayo of Thomaston moved that the House reconsider its action whereby the House voted to recede and concur on An Act to Establish the Office of Substance Abuse (S.P. 909) (L.D. 2312) which was Passed to be Enacted in the House on April 10, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-639) as amended by House Amendment "B" (H-1102) thereto); came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-639) as amended by Senate Amendment "B" (S-713) thereto in non-concurrence.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I would like to make a motion to indefinitely postpone L.D. 2312 and all its accompanying papers.

We all want to see an Office of Substance Abuse created so it doesn't make me very proud to make this motion. I thought I lost my last fight on the dedication issue and, if that was the decision of this body, I was ready to accept it because I believe in the democratic process and that the majority rules.

However today, I am aware of a whole new problem with the bill. It has been brought to my attention that it has problems with constitutionality. Do you know that if we pass this bill that the involuntary commitment has been deleted and that means people would not have due process? The emergency commitment portion is what makes the bill unconstitutional. We have a ruling handed down by the Maine Supreme Court, if you were picked up for OUI, you or your friends or anyone that you know, after this law goes into effect, a person could be held for five days with the administrator of a facility being the decision maker. Where is the due process? The legislative analyst who served the committee in the first session called the committee's attention to it in his report. Why didn't the committee deal with it? For that reason, I am asking for the indefinite postponement. What I would like to do, if I may, is suggest that it go back to the two groups that helped create this bill. It is a good bill, that office is needed and I wholly support it, but the way it is, I

think we would be doing an injustice to our neighbors and friends.

(At Ease)

The House was called to order by the Speaker.

Subsequently, Representative Mayo of Thomaston withdrew his motion to reconsider whereby the House voted to recede and concur on Bill An Act to Establish the Office of Substance Abuse (S.P. 909) (L.D. 2312).

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate except for matters held.

The following item appearing on Supplement No. 46 was taken up out of order by unanimous consent:

**CONSENT CALENDAR**  
First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(S.P. 753) (L.D. 1961) Bill "An Act Relating to the Collection of Health Data in Ambulatory Settings" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-739)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

The following items appearing on Supplement No. 47 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**  
Emergency Measure

An Act to Establish a Statewide System of School-to-community Transition Coordination Services for Handicapped Youth (H.P. 1448) (L.D. 2017) (C. "A" H-1129)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 106 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**  
Emergency Measure

An Act to Make Supplemental Appropriations and Allocations and to Change Certain Provisions of the Law for the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1990 and June 30, 1991 (H.P. 1763) (L.D. 2428) (C. "A" H-1126)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Create a Statewide Coordination Office for Suspected Child Abuse and Neglect Teams (H.P. 1396) (L.D. 1926) (C. "A" H-1131)

An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations (H.P. 1725) (L.D. 2384) (C. "A" H-1128)

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

**ENACTOR**

**Later Today Assigned**

An Act to Require the State to Provide Full Funding for All Mandates Having an Impact on the Expenses of County and Municipal Governments (H.P. 1783) (L.D. 2453) (C. "A" H-1124)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Carter of Winslow, tabled pending passage to be enacted and later today assigned.

**PASSED TO BE ENACTED**

An Act to Implement Certain Recommendations of a Subcommittee of the Joint Standing Committee on Appropriations and Financial Affairs (H.P. 1755) (L.D. 2418) (C. "A" H-1127)

An Act to Extend the Sunset of Special Seasonal Liquor Stores (H.P. 1838) (L.D. 2509)

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

The following item appearing on Supplement No. 57 was taken up out of order by unanimous consent:

**PAPER FROM THE SENATE**  
Non-Concurrent Matter

Bill "An Act Regarding the Maine Environmental Protection Fund Air Emission Fee Schedule" (H.P. 1840) (L.D. 2511) which was referred to the Committee on Energy and Natural Resources in the House on April 13, 1990.

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed as amended by Senate Amendment "A" (S-740) in non-concurrence.

The House voted to adhere.

The following items appearing on Supplement No. 58 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**  
Emergency Measure

An Act to Validate and Ratify a Vote of the Town of Gray Concerning the Gray Water District (H.P. 1839) (L.D. 2510)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Provide Funds for a Design Competition for the Construction of a New Supreme Judicial Court Facility in Augusta (H.P. 1774) (L.D. 2442) (C. "A" H-1125)

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

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 27 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Clarify the Laws Relating to Audit Reports, Audit Adjustments and Withholding State Subsidy (S.P. 770) (L.D. 1995) (C. "A" S-706)

An Act to Increase the Bonding Limit for the Maine Court Facilities Authority (S.P. 973) (L.D. 2439) (C. "A" S-705)

An Act to Clean the Environment by the Reduction of Toxics Use, Waste and Release (S.P. 1011) (L.D. 2507) (S. "A" S-708)

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

(Off Record Remarks)

By unanimous consent, all matters requiring Senate concurrence except those held were ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

(Off Record Remarks)

The following items appearing on Supplement No. 48 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Provide for Base-year Revisions for Intermediate Care Facilities for the Mentally Retarded (H.P. 250) (L.D. 362) (S. "B" S-709 to C. "A" H-813)

An Act to Create a Fuel Assistance Reserve Fund (H.P. 332) (L.D. 451) (S. "A" S-710 to C. "B" H-908)

An Act to Amend County Jail Transfers and the Community Corrections Laws (S.P. 277) (L.D. 723) (S. "B" S-711 to C. "B" S-519)

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

The following items appearing on Supplement No. 49 were taken up out of order by unanimous consent:

**FINALLY PASSED  
Emergency Measure**

Resolve, to Study the Use of Herbicides (S.P. 700) (L.D. 1838) (S. "A" S-717 to C. "A" S-480)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Facilitate the Admission and Treatment of Involuntary Patients by Community-based Mental Health Institutions (H.P. 1336) (L.D. 1853) (S. "A" S-718 and H. "A" H-1037 to C. "A" H-986)

An Act to Amend the Laws Relating to the Purchase of Military Service Credits by Members of the Maine State Retirement System (H.P. 1346) (L.D. 1863) (S. "A" S-719 to C. "A" H-796) Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The following items appearing on Supplement No. 50 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Permit Changes in the Charter of the City of Ellsworth School District (S.P. 720) (L.D. 1895) (S. "A" S-720 to C. "A" S-531)

An Act to Amend the Counseling Licensing Laws (S.P. 730) (L.D. 1929) (S. "B" S-721 to C. "A" S-640)

An Act to Provide Access to Preventive Dental Care Services to Adults Eligible for Medicaid (H.P. 1398) (L.D. 1934) (S. "A" S-712 to C. "A" H-831)

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

The following items appearing on Supplement No. 51 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Expand and Extend the Maine Managed Care Insurance Plan Demonstration Project (H.P. 1509) (L.D. 2089) (S. "A" S-724 to C. "A" H-823)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Establish Coastal Watershed Districts (H.P. 1438) (L.D. 2008) (S. "A" S-722 to C. "A" H-751)

Bill "An Act Relating to Services to Infants and Young Children, Ages 0 through 5, Who Are Handicapped or at Risk for Developmental Delay" (S.P. 805) (L.D. 2068) (S. "B" S-723 and H. "A" H-1032 to C. "A" S-592)

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

The following items appearing on Supplement No. 54 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Create Community Restitution Centers (H.P. 1640) (L.D. 2273) (S. "A" S-730 to C. "A" H-1002)

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

**PASSED TO BE ENACTED**

An Act to Establish the Office of Substance Abuse (S.P. 909) (L.D. 2312) (S. "B" S-713 to C. "A" S-639)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed

Representative Melendy of Rockland requested a roll call vote on enactment.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 253

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Begley, Bell, Boutilier, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, M.; Conley, Constantine, Cote, Crowley, Curran, Daggett, Dellert, DiPietro, Donald, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farren, Graham, Greenlaw, Gurney, Gwadosky, Handy, Hastings, Heeschen, Hepburn, Hochborn, Higgins, Hutchins, Jacques, Jalbert, Joseph, Ketover, Larrivee, Lebowitz, Libby, Lisnik, Look, Luther, Macomber, Mahany, Manning, Mayo, McCormick, McGowan, McKeen, Michaud, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; O'Dea, Oliver, Paradis, E.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Reed, Richards, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Skoglund, Small, Smith, Stevens, P.; Stevenson, Swazey, Telow, Townsend, Walker, Webster, M.; Wentworth, Whitcomb, The Speaker.

MAY - Aikman, Allen, Bailey, Brewer, Butland, Carroll, J.; Clark, H.; Dexter, Dore, Farnum, Foss, Foster, Garland, Hale, Hanley, Hickey, Holt, Hussey, Kilkelly, Lord, MacBride, Marsano, Marsh, Martin, H.; McHenry, McPherson, Melendy, Merrill, Mills, Norton, Nutting, O'Gara, Seavey, Simpson, Stevens, A.; Strout, B.; Strout, D.; Tammaro, Tracy, Tupper.

ABSENT - Chonko, Coles, Gould, R. A.; Hoglund, Jackson, LaPointe, Lawrence, Marston, McSweeney, Paradis, J.; Parent, Richard, Ridley, Tardy.

Yes, 96; No, 40; Absent, 14; Vacant, 1; Paired, 0; Excused, 0.

96 having voted in the affirmative, 40 in the negative, with 14 being absent and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Provide Greater Opportunities for Orphans and Foster Children (H.P. 1685) (L.D. 2333) (S. "A" S-731 to C. "A" H-1010)

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

The following items appearing on Supplement No. 55 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Improve the Job Opportunities Zone Act (H.P. 1690) (L.D. 2340) (S. "A" S-732 and H. "A" H-1011 to C. "A" H-1003)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 9

against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR  
Emergency Measure  
(Failed of Enactment)

An Act Concerning the Carrying of Firearms and Firearms Safety Programs (H.P. 1737) (L.D. 2398) (S. "A" S-733 to C. "A" H-1030)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 98 voted in favor of the same and 29 against and accordingly the Bill failed of enactment. Sent up for concurrence

PASSED TO BE ENACTED

An Act to Promote Equity of Opportunity for Women in Administrative Positions in the Public School System (H.P. 1692) (L.D. 2342) (S. "A" S-714 to C. "A" H-974)

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

The following items appearing on Supplement No. 56 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act Relating to Correctional Policy (H.P. 1814) (L.D. 2486) (S. "A" S-735 to S. "B" S-673)

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

FINALLY PASSED

Resolve, to Establish a Model Coordinated Response System for Child Abuse Referrals in Penobscot and Piscataquis Counties (H.P. 1752) (L.D. 2415) (S. "A" S-715 and H. "A" H-1034 to C. "A" H-956)

Resolve, to Direct the Department of Human Services to Develop a Proposal to Adequately Address the Housing Needs of Aid to Families with Dependent Children Recipients (S.P. 962) (L.D. 2429) (S. "A" S-734 to C. "A" S-627)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, finally passed, signed by the Speaker and sent to the Senate.

The following items appearing on Supplement No. 59 were taken up out of order by unanimous consent:

COMMUNICATIONS

The following Communication:  
STATE OF MAINE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS  
April 13, 1990

The Honorable John L. Martin  
Speaker of the House  
114th Legislature  
Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Appropriations and Financial Affairs during the Second Regular Session of the 114th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	148
Unanimous reports	147
Leave to Withdraw	12

Ought to Pass	5	
Ought Not to Pass	88	
Ought to Pass as Amended	24	
Ought to Pass in New Draft	0	
Re-referrals	18	
Divided reports		1
Respectfully submitted,		
S/Michael D. Pearson	S/Donald V. Carter	
Senate Chair	House Chair	
Was read and ordered placed on file.		

**PASSED TO BE ENACTED**  
**Emergency Measure**

Resolve. Authorizing the Governor and the Atlantic Sea Run Salmon Commission to Enter into an Agreement with Edwards Manufacturing Company, Inc. (H.P. 1837) (L.D. 2508)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, I would like to ask a couple of questions, I would assume, to anyone on the Appropriations Committee.

The first question would be, how much is this agreement being made for?

Question number two would be, how much does this represent to the taxpayers of the City of Augusta?

The SPEAKER: Representative Nadeau of Saco has posed a series of questions through the Chair to any member of the Appropriations Committee who may respond if they so desire.

The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I am not sure I have the answers that the gentleman is seeking. To my knowledge, there is no money involved at this point in time with this Resolve. Furthermore, it doesn't alter any situation with the City of Augusta, whatever is in place now stays in place until this particular Resolve becomes effective and that might not be before 1998 or 1999.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I wish to thank Representative Carter for those responses. However, the only thing that bothers me with this Resolve is if in fact the negotiations of this dam are in the best interests of the State of Maine and, if it is a good idea this year, it seems to me it would be even a better idea next year. The reason for that comment is that there could potentially be liability to the citizens of the City of Augusta in the form of property taxes.

I point out to the City of Augusta, obviously I don't represent this area, however, I am looking at a broader picture and that broader picture is, through certain statements made by the administration regarding overall tax policies, property taxpayers in the State of Maine are facing a \$60 million absorption of property taxes. That figure was \$70 million but with a little bit of negotiations and a lot of hard work by the Appropriations Committee that net figure is now in the neighborhood of \$60 million. However, I will bring back the concern that I have and that concern is not necessarily with the policy whether or not negotiations of this dam is or

is not a good idea. What I am questioning is, are we adding a quote "tale" unquote, in the form of property tax increases? So, you may vote as you wish but I would like to issue those concerns.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: At this hour, let me put aside the concerns of the good Representative from Saco and put into the Record that it is the understanding that all of us, the Representative from Winslow, the Representative from West Gardiner, and other sponsors in the other body, have had in our negotiations that the City of Augusta, which presently receives approximately \$80,000 in property tax revenue from the dam will continue to receive it. Beginning next year, there will be an addition of \$75,000, making it \$155,000 for the following three years to be augmented afterwards by an increase of \$25,000 additional to \$180,000. So, the concerns that the Augusta Delegation and others who shared our concerns had with this original legislation were taken care of and were addressed.

Always there are problems in shifting the burden when we talk about removing certain properties from the tax rolls. I believe in this instance that I can honestly and truthfully say to the people of my area that the parties were concerned and it did address, and that Edwards Manufacturing Company, Miller Hydro Development, the sponsors, the administration and everyone worked together to make sure that we could have this Resolve, L.D. 2508, come before this body even at this late hour but under unanimous agreement. I appreciate the concerns and consideration that was given to us and to the people of my area.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: A few weeks ago, I was stunned by the Governor's proposal for the American Salmon Run to take the Augusta Dam by eminent domain. It was a red flag to many of our residents who have been eminent domain to death by the State of Maine. We had no awareness of any studies or surveys so his request was quite unusual.

In 1850, Augusta was a very stagnant community because of the lack of employment. The dam was built in 1852 and, shortly after, two large mills were constructed to utilize the power generated by the dam. Over the years, it has provided thousands of jobs and today is a valuable resource developing hydro power. In recognition of the Kennebec River and its hydro electric potential as a natural and economic resource, the City of Augusta shall seek to obtain the maximum potential of the so-called Edwards Dam as an energy producing tax resource. While we would prefer that no bill be enacted to remove the dam, the Resolution would at least permit the operation of the dam until 1998. During this period, Augusta will receive valuable tax revenue and payments from the dam. I urge your support for this Resolution.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will permit me at this late hour to say a few words on an issue that I have been working on since 1965. Many have asked, why have I persisted? Many of you have heard me say the phrase which I often use which is a quote that I picked up from an old Colonel friend in Europe in my younger days, "Hope springs eternal in the human

breast." I suspect that has kept me going for all these years. It has been a very tough fight.

When I began, I was not only fighting the City of Augusta, I was fighting the K.J., the Department of Inland Fisheries and Wildlife, Marine Resources, the power companies, the paper companies and a host of lobbyists that used to come out of the woodwork. Down through the years, we have succeeded in working together and we have reached a point where I think that I will be able to catch a salmon before I leave this earth. I hope to catch the salmon in my backyard.

The Resolution that we have before us has been under tremendous negotiations for the past several weeks. The Augusta Delegation is to be commended and the people who labored to achieve this point in time are also to be commended. It is a tremendous gain for the City of Augusta and the people of the state. We have a tremendous resource in the Kennebec River, a resource that I have been fighting to protect, not so much for myself, but for my children and my grandchildren. My grandchildren will enjoy what I have enjoyed with my children in the years to come because of this concentrated effort.

You have heard me speak many times on how valuable an economic asset this is and we have reached a point where I think I can say truthfully that we are going to breach the dam.

I hasten to add, however, that this is only the first step. I reached a point in the past where I was pretty close but there are areas that could still crop up in the future that may delay this. For example, there is no firm contract in place for purchase of power following 1998. Hopefully, the people who have been negotiating for these past weeks will continue their negotiations to assure that the contents of the agreement and this Resolution will come to fruition.

I have great hopes that continued efforts, and I know as long as I am in these hallowed chambers, I will continue to press and push to see that the contents of this Resolution and agreement that goes with it will come to fruition.

Again, I would like to extend my congratulations to the Augusta Delegation and for all who were involved in reaching this stage.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: In the City of Waterville, we still have a blue law that says you pay a 50 cent fine if you get caught cleaning Atlantic Salmon on the banks of the Kennebec River from the mouth of the Sebastacook to above where the old dam was. Many people have asked, why don't we take that blue law off the books because salmon aren't coming up there anyway? Well, tonight you have a chance to take that very important first step.

Representative Carter has worked a quarter of a century or longer trying to achieve what looks like we are on the verge of achieving tonight.

I, too, would like to commend all the people involved. I think once people stopped worrying about who was going to get the credit and who was going to get the blame and concentrated their efforts on the resource, the return of this great resource that we have in the State of Maine, I think things started to work. My concern has always been the resource, the resource that has been going backwards every single year there was no passage in that dam. The people who drafted this proposal have considered the resource. That has been my only concern and I am proud to say that that has been their concern.

Many of you have asked where I stood on this proposal. I would like to make it perfectly clear to you tonight that I agree with Representative Carter. It is a major first step. It is a first step and we pledge to you that we will continue to push for Don Carter's dream and make it become a reality. I hope he is around long enough to catch that salmon because I will be sitting on the bank with a cold can of beer applauding while he reels the salmon in.

I would hope that everyone here would support, wholeheartedly, 100 percent, without any qualms or equivocations, this proposal here tonight because I intend to. It has been a long time coming and God bless those who persevered and suffered through this process and God bless you Representative Marsh for your efforts on behalf of this proposal.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 61 was taken up out of order by unanimous consent:

**Committee of Conference**

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Reduce Costs to County and Municipal Government by Delaying the Implementation Dates of Certain State Mandates" (S.P. 1004) (L.D. 2492) have had the same under consideration and ask leave to report:

That the Senate insist to passage to be engrossed.

That the House recede and concur with the Senate.

(Signed) Senator KANY of Kennebec, Senator CLARK of Cumberland, and Senator CAHILL of Sagadahoc - of the Senate.

Representative MICHAUD of East Millinocket, Representative JACQUES of Waterville, and Representative LORD of Waterboro - of the House.

Came from the Senate with the Committee of Conference Report read and accepted and the Senate having insisted on its former action whereby the Bill was passed to be engrossed.

The Committee of Conference Report was read and accepted.

Subsequently, the House voted to recede and concur.

The following items appearing on Supplement No. 53 were taken up out of order by unanimous consent:

**FINALLY PASSED**

**Emergency Measure**

Resolve, Establishing the Commission to Assess the Impact of Increased State Spending on the University of Maine System (H.P. 1637) (L.D. 2270) (S. "A" S-729 and H. "A" H-998 to C. "A" H-928)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Create the Maine Coast Environmental Trust Fund (H.P. 1589) (L.D. 2201) (S. "A" S-728 to C. "A" H-811)

An Act to Clarify the Role of the Board of Environmental Protection (H.P. 1602) (L.D. 2214) (S. "B" S-716 and H. "A" H-1040 to C. "A" H-950)

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

The following items appearing on Supplement No. 60 were taken up out of order by unanimous consent:

**PAPER FROM THE SENATE**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

April 13, 1990

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

House Paper 1588 Legislative Document 2200, An Act Regarding Investment of Funds in Corporations Doing Business in Northern Ireland, having been returned by the Governor together with his objections of the same pursuant to the provisions of the of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

21 Senators having voted in the affirmative and 14 Senators having voted in the negative, and no Senators being absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

**FINALLY PASSED**

Resolve, to Establish a Medicaid Plan for Children and Families (S.P. 704) (L.D. 1842) (C. "A" S-737)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act Relating to the Collection of Health Data in Ambulatory Settings (S.P. 753) (L.D. 1961) (C. "A" S-739)

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

The following items appearing on Supplement No. 52 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Amend the Percent for Art Act (S.P. 834) (L.D. 2142) (S. "A" S-528; C. "A" S-521; S. "B" S-726)

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

**FINALLY PASSED**

**Emergency Measure**

Resolve, to Study Threats to Maine Lakes (S.P. 841) (L.D. 2160) (S. "A" S-727 to C. "A" S-503)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

On motion of Representative Jacques of Waterville, the House reconsidered its action whereby An Act Concerning the Carrying of Firearms and Firearms Safety Programs (Emergency) (H.P. 1737) (L.D. 2398) (S. "A" S-733 to C. "A" H-1030) failed of enactment.

Representative Jacques of Waterville requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is passage to be enacted.

The Chair recognizes the Representative from Bangor, Representative Stevens.

Representative STEVENS: Mr. Speaker, I request permission to pair my vote with Representative Hoglund of Portland. If she were present and voting, she would be voting yea and I would be voting nay.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 254**

YEA - Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Begley, Bell, Boutilier, Burke, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dellert, Dexter, DiPietro, Donald, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Foss, Foster, Graham, Greenlaw, Gurney, Gwadosky, Hale, Hastings, Heeschen, Hepburn, Hichborn, Hickey, Higgins, Holt, Hussey, Jacques, Jalbert, Joseph, Joseph, Ketover, Kilkelly, Larrivee, Lebowitz, Libby, Lisnik, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McCormick, McGowan, McPherson, Melendy, Merrill, Michaud, Mills, Mitchell, Murphy, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Reed, Richards, Rolde, Rotondi, Ruhlin, Rydell, Seavey, Sheltra, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tammaro, Telow, Townsend, Tupper, Walker, Webster, M.; Wentworth, Whitcomb, The Speaker.

NAY - Adams, Brewer, Curran, Garland, Handy, Hanley, Hutchins, McHenry, McKeen, Norton, Tracy.

ABSENT - Chonko, Gould, R. A.; Jackson, LaPointe, Lawrence, Marston, McSweeney, Moholland, Paradis, J.; Parent, Richard, Ridley, Tardy.

PAIRED - Hoglund, Stevens, P..  
Yes, 124; No, 11; Absent, 13; Vacant, 1; Paired, 2; Excused, 0.

124 having voted in the affirmative, 11 in the negative, with 13 being absent, 2 having paired and 1

vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Representative Carter of Winslow, the House reconsidered its action whereby it voted to recede and concur on Bill An Act to Amend and Improve the Education Laws of Maine (S.P. 830) (L.D. 2138) which was Passed to be Enacted in the House on March 9, 1990. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-534); came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-534) as amended by Senate Amendment "A" (S-725) thereto in non-concurrence.

On further motion of the same Representative, the House voted to recede.

Senate Amendment "A" (S-725) to Committee Amendment "A" (S-534) was read by the Clerk.

On motion of Representative Carter of Winslow, the House voted to indefinitely postpone Senate Amendment "A" (S-725) to Committee Amendment "A" (S-534).

The same Representative offered House Amendment "A" (H-1134) to Committee Amendment "A" (S-534) and moved its adoption.

House Amendment "A" (H-1134) to Committee Amendment "A" (S-534) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: (S.P. 769) (L.D. 1994) Bill "An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-707) which was tabled earlier in the day and later today assigned pending adoption of House Amendment "A" (H-1132) to Committee Amendment "A" (S-707).

Subsequently, House Amendment "A" (H-1132) to Committee Amendment "A" (S-707) was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence with the exception of those held were ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Establish the Department of Child and Family Services" (EMERGENCY) (H.P. 1199) (L.D. 1666) (H. "B" H-1109 to C. "C" H-820)

- In Senate, Passed to be engrossed as amended by Committee Amendment "C" (H-820) as amended by House Amendment "A" (H-1008) and Senate Amendment "B" (S-672) thereto in non-concurrence which was tabled earlier in the day and later today assigned pending passage to be engrossed as amended by Committee Amendment "C" (H-820) as amended by House Amendment "B" (H-1009) thereto in non-concurrence.

On motion of Representative Carter of Winslow, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "C" (H-820) was adopted.

On further motion of the same Representative, under suspension of the rules, House Amendment "B" (H-1109) to Committee Amendment "C" (H-820) was indefinitely postponed.

On further motion of the same Representative, under suspension of the rules, Committee Amendment "C" (H-820) was indefinitely postponed.

The same Representative offered House Amendment "A" (H-1130) and moved its adoption.

House Amendment "A" (H-1130) was read by the Clerk.

At this point, the Speaker appointed Representative Higgins of Scarborough to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

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

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: When House Amendment "B" was introduced to this House, it had not been seen by members of the Committee, by the Executive Office or by anyone involved in the process. I repeat, none of these had seen the amendment. A couple of days ago, a joint meeting of leadership, Representatives, Senators, and the Executive Department was held in the State Government room. We went over the amendment making corrections as we understood what the agreements were and came to an agreement stating that we must see the agreement in print before we would go along with it. It has never been printed. Another new amendment is being presented today in direct contrast to our agreement. However, that has been changed now and another one has been added just this minute. Again, no one concerned has seen this.

Because of all the problems with this bill, I now move indefinite postponement of L.D. 1666 and all its accompanying papers. I request a roll call.

The SPEAKER PRO TEM: The Chair would advise the Representative from Wells, Representative Wentworth, that the motion to indefinitely postpone the bill and all accompanying papers is out of order. You could, however, indefinitely postpone the amendment.

The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: I would move that the amendment be indefinitely postponed and I request a roll call please.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: We have had extensive debate on this piece of legislation. We have had frequent meetings with the Governor and his representatives and this bill reflects 20 concessions made by those who supported the original bill. As this bill was



drafted, however, it was recognized through those concessions, all we had was a study, a plan and that in fact no method in which to implement a department. Therefore, in this piece of legislation in the early part, section 102, it does state that a Department of Children and Families will be established. However, it does not guarantee that that Department of Children and Families will be established as outlined. It is a designed concept only. Therefore, the essence of the bill has not been changed, the concept is still as it always has been, that there will be a transition process. After that transition process and the Joint Select Committee and the Advisory Commission has met, they will submit a plan to the legislature and to the Governor for approval and disapproval.

Therefore, I urge you not to indefinitely postpone this measure because I do believe that all of us share the same goals, that we would like to leave this legislative session with a landmark decision to create a policy for children of the State of Maine.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: I would just like to say that the original agreement that was handled in a negotiation period of two or three hours calls for a ten month trial period to determine whether an office or a department was the better way to handle this. I hope that you would still indefinitely postpone this amendment.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, has the yeas and nays been requested on the indefinite postponement of the amendment or was the roll call originally on the indefinite postponement of the bill?

The SPEAKER PRO TEM: The Chair would advise the Representative that a roll call has been requested.

The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: We have gone around and around and around on this bill. We have today before us another amendment that has been described as thoughtful and well-conceived, but let me remind you about some of the flaws in the original bill that was also described as carefully drafted. First, we could have lost over \$16 million in federal funds by moving the Maternal and Child Health Program and the WIC program out of the State Health Agency which is DHS.

Secondly, that bill moved Child Development Services out of the Department of Education to a new department, yet federal law requires that this function be located in the Special Ed Department.

YAQ probably remember also that the original bill cut two positions that do not even exist. So much for well-drafted bills. That bill was ill-conceived and based on false assumptions. It was not drafted from a comprehensive management study and did not include one dime for direct services for children. It only created new bureaucratic machinery.

When these flaws were pointed out several weeks or days or some time ago, an amendment was presented to try and clean up that bill. In this new amendment, we have only a commissioner with no department and a study on how to create that department. In the past few weeks in the Appropriations Committee, we heard a lot of criticism about high-paid commissioners and the cry has been that cuts should occur at the administrative level and direct services to vulnerable citizens should be preserved.

I find it ironic that tonight this bill creates a high-paid administrative position and no money for direct services to kids. In my opinion, it is like creating a human being with only a head and no body.

The fact of the matter is that no one right now is certain on how to most effectively deliver coordinated services to children. We all agree that children need a single voice at the highest policy level. Some of us do believe that an Office of Children should be established immediately so that voice is created as we study the options and those options would include a Department of Children. Whatever our disagreements, however, do not be fooled by this amendment, it does nothing but establish a commissioner position, one of the "high-paid administrative positions" and a shell of a department. It does nothing directly for children. It creates unnecessary bureaucracy without doing one constructive thing for kids.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Representative Foss is quite right in indicating that we have received criticism in the past week before the Appropriations Committee because of the high-paid bureaucrats in state government. She is also aware that those high-paid bureaucrats were not the result of what the Appropriations Committee did, the recommendations came from the second floor.

I have been here a few years and I know what it takes and what you have to do to make changes in state government, it is not an easy task. I have seen complete reorganization. I have seen 150 different agencies reorganized into separate and lesser number of departments.

What we are dealing with here this evening are children. This is our most precious resource in the state. We have been ignoring them far too long.

I am a cosponsor of this bill and I strongly believe in it. The reasons are very simple, for all the years that I have sat on the Appropriations Committee and this is the 18th one, I have never seen children treated like they should be. In this case, we have five different departments supposedly charged with dealing with children services. To accomplish this task, we have an interdepartmental council. Several weeks ago before the Appropriations Committee, there was a bill sponsored dealing with children, it called for case management. Patches of that bill would generate an excess of \$5 million from the Medicaid Fund.

Most of the Representatives -- I believe there were four representatives out of the five departments present and each one was asked if they were aware of this before the bill was presented. Back came the answer, "no." They were asked, "Why didn't you do something about this, why didn't you look into this?" No answer. The interdepartmental council apparently has been functioning like many other councils, they assumed that this department did what they thought they were going to do. Each department thinks that the other one is going to do the other one's job. Consequently, nothing gets done. The end result is, the children are ignored.

When someone comes along with a bill that looks like it is going to generate funds to provide a service, they crawl out of the woodwork like flies to honey, they all want a piece of the action. Then starts the turf fights. This belongs to my department, this belongs to my department and who suffers? The children.

It is high time that we start doing what we are supposed to do, serve our constituents. Today's

children are tomorrow's taxpayers, tomorrow's leaders. We should give them the opportunity that they rightfully deserve. You can't accomplish this unless you go through a reorganization. The system that we have here before us is no different than what has been utilized in the past. True, we are creating a shell, this is the only way you can do it. It has been done before and it works. It is going to take some time, but it works. It is going to provide a better transition system, and before anything is implemented, we will have a say in it. I would hope we would put our differences aside, think of the children, our most precious resource, and vote against the motion of indefinite postponement.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: Part of our pleasure of serving in this body is that we get a great number of pieces of correspondence from various parts of the state and various groups. I just wanted to read to you briefly one letter from the Maine Public Health Association, which I have here, and was sent to both legislative leadership and to the Governor concerning this particular bill.

It says, "Dear Governor McKernan: The Maine Public Health Association urges you to veto L.D. 1666, An Act to Establish a Department of Families and Children and any amendments to it which would establish a separate state agency to administer children's services. The Association represents approximately 300 health professionals throughout the state and is dedicated to improving public, personal, and environmental health.

Our Association is keenly aware of the need to improve services to children in the state but does not believe the creation of a separate bureaucracy is an appropriate or effective solution. Only a few states have established separate departments and, after discussions with state officials and national children's advocacy groups, we are not convinced that creating a department will assist Maine's children.

Furthermore, we believe such a proposal to split children's services from the public health system will weaken the state's capacity to meet the varied and complex health and social service needs of the state's children. Already families in need are confronted with multiple caseworkers and conflicting program eligibility requirements which offer nothing more than inadequate patchwork of services to needy families. Segregating children's services can only exacerbate the fragmentation of services provided by maternal and child health services, alcohol and drug abuse programs, AFDC and other benefits, mental health programs, housing, jobs, education, nutrition programs and preventative health care.

The coordination of the Medicaid program with services and programs for children and families would, in our judgment, be seriously undermined by this proposal. Rather than splitting financing from service delivery, we need to be encouraging greater policy coordination.

Finally, we reject efforts to administer services by population group. While the compelling needs of Maine's children require more attention by our government, the creation of a separate children's agency will create additional bureaucracy and cost, and will initiate the potential for intergenerational warfare--pitting children against others in need--and initiate efforts to achieve departmental level status for all other population groups.

About 15 years ago, Aging advocates across the country, concerned that the elderly were not receiving adequate attention in public policy

debates, sought to create Departments on Aging. A number of states did so. However, in no instance, is there evidence that organizational status alone improved service delivery for the elderly. In fact, as the aging population grew, their needs changed, and long-term care became a critical priority. Departments on Aging located independently often did not have access to Medicaid, social services, block grants and other essential financing. Therefore, it tended to be those agencies housed in umbrella organizations -- large human services departments -- which achieved early leadership in long-term care development. Those states included Oregon, Wisconsin, and Maine.

We understand that some of the advocacy for an independent agency for children comes from concern about special-needs children whose problems are complex and who require substantial help from a number of programs. A separate agency, we feel, cannot achieve the kind of system development these children and their families require. For example, many special-needs children are chronically ill and may have service needs more in common with the elderly and disabled than with healthy youngsters. Several changes could be made now in the Medicaid program to better meet the needs of these children. A separate department is not needed.

The plight of Maine's children requires leadership and action to better integrate financing and delivery systems and to assure comprehensive services to support children and their families. Our service system for children in need is at risk, suffering from inadequate financing, increasing demand, inconsistent administration and fragmentation of service delivery. Frustrated by the inability to address these more critical and fundamental issues, we believe advocates seek a separate Department of Children in the belief that they are doing something, when so many other efforts have failed. We share that frustration but believe a separate department will simply forestall action again, as bureaucratic reshuffling disguises needed actions.

There are certainly no guarantees that a separate department will solve problems nor in any way to anticipate new problems a new and separate agency will create.

We urge you to veto this bill and instead devote your leadership and commitment of your administration to work with the legislature and advocates to resolve the many problems children face. Sincerely, Andrew F. Coburn, PhD, President and Patricia Riley, Chair of Legislative Committee."

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I understand the motion before us now is for indefinite postponement of the amendment. I guess I would like to pose a couple of questions.

One of the questions is, what effect does the postponement of the amendment have on the bill itself?

Second, is this amendment and the bill the result of negotiations with the Governor's Office and what is the Governor's position towards this particular amendment that we are being asked to indefinitely postpone?

The SPEAKER PRO TEM: Representative Rolde of York has posed two questions through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: To answer the first question, this amendment replaces the bill. It

establishes the Department of Children and Family Services, it then establishes an advisory commission made up of a Joint Select Committee as in the transition process that Representative Carter mentioned to you before in 1970-71, this is a designed concept only. Then it goes forth and it forms an advisory commission, made up of the same people that you just heard Representative Hepburn from Skowhegan refer to, service providers, workers, members of the Executive Department and they will be appointed by the Governor, the Speaker of the House and the President of the Senate. They will report back with their implementation plan. At that particular time, the legislature and the Governor would then have the option to reject that plan. Therefore, that would mean that the department would not be created or a decision would be made to go forth and redesign another plan.

It seems to me that Representative Foss was absolutely correct, this does not provide direct services to children but it was well described to you by Representative Carter that we need a plan, a plan that works as far as the transition process is concerned. All of us know that direct services to children are scattered through five different state agencies, administered by four Commissioners and one director and a host of deputy directors, communication specialists and public relations persons. When you talk about one interim commissioner, who will be appointed by the Governor, who will work with this transition team to recommend to the legislature and to the Governor the best way to provide services for children in the future, I believe if you have a commitment for children, then you will vote for this bill. Creation for a Department of Children and Families will, for the first time, show our wholehearted commitment to children and families for the state.

When I say scattered throughout state government, in these different departments, in the Department of Corrections, 19 percent of the budget -- how much attention to children and families have if that commissioner is only talking about children and families which are 19 percent of that budget? In the Division of Community Services, 7.7 percent of their budget deals with children and families. In the Department of Education and Cultural Services, the children in the Child Welfare System, .01 percent. In Mental Health and Mental Retardation, .04 percent and in the Department of Human Services, 12 percent. I believe that we can do better. I want us to do better. The children and families are now up against a wall of bureaucracy.

There has been no complete agreement on this piece of legislation. There have been many meetings, there have been suggestions and there have been changes made to the original bill. Representative Foss talked about positions that have been deappropriated and savings incurred by the first bill. Yes, those were identified and they were identified by the Office of Fiscal and Program Review. They were identified to show savings in order to fund that piece of legislation.

At the Governor's request, those deappropriations were taken out of the bill. I could go on but the hour is late. I could numerate to you at least 20 changes in this piece of legislation in order to address the Governor's concerns and in order to address all other persons who were concerned about this piece of legislation.

I say to you folks, you have nothing to fear. We are simply combining these services, we are developing a unified coordinated approach to children and family services in the State of Maine. I ask you

not to indefinitely postpone and to vote against the motion.

Representative Wentworth of Wells was granted permission to speak a third time.

Representative WENTWORTH: Mr. Speaker and Members of the House: This amendment makes a bigger wall of bureaucracy and the Governor does not agree with the concept.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: The hour is late and I really hadn't intended to speak but I am going to start what will begin something less than a tirade but it will be a charge of sorts.

There is something wrong with state government and it is this layer of transient managers that we have introduced to it through the political appointment system that goes down too deep into these bureaus. It will not be licked by adding another bureau, another agency. It will only be licked with having people in those positions who have made a career of caring and a career of knowing.

I can't say more about that tonight, but if anything is wrong, it is wrong with having a transient set of managers going down to the level of directors in all these bureaus. What career person would ever be tempted to join state government in a term that could last four or at the most eight years? I speak to that now, not having been recently burned by it because my career lasted long enough in state service, and I couldn't thank them enough for allowing me to get out. I still have great respect for those people who work in these offices. I worked with them, I cared, they care. What I resented most was someone being put in over our heads who didn't know and I called them ornaments. I never called them ornaments to their face because that would have been insulting and probably called insubordination and I wouldn't make it easy. I say it caringly, that is what is wrong with this state government right now and we need to reinstitute career positions up through the level of whatever is right under the deputy commissioner. You can give away the commissionership, you can give away the deputy, but we will never have a person like Kermit Nickerson from Waterville, you won't have him. He spent 20 years working for several governors and I submit to you that this is a serious weakness in state government and it can't be fixed with some tampering with organization.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman from Winthrop, Representative Norton, has just told you why we should enact this bill. The process that is proposed in this amendment will do exactly what he wants to do. Before anything is done, it will have to come back before this body for acceptance. All this bill does is create the necessary shell, it puts the proposed changes in motion. The commission created by this amendment will look into what he has referred to. It is not an unknown process, it is the only way that you can accomplish change in a system that has reached a level, as you heard Representative Norton tell you, from the inside, an insider telling us what it is like.

In 1971, a law was passed to create and establish the Department of Human Services, to maximize the human capabilities of the people of the State of Maine by developing, organizing, and applying the health, medical, and social services for the prevention and/or amelioration of conditions

disadvantageous to the achievement of individual, group, or community potential to consist of a Commissioner of Human Services who shall be personally qualified by education and experience as a specialist in management and administration, appointed by the Governor and Council (thank God we did away with it) hereinafter in this part called a Commissioner and the following are heretofore created and established the Department of Health and Welfare, the Department of Mental Health and Corrections, the Committee on Children and Youth, the Governor's Advisory Council on the Status of Women, the Committee on Aging and on and on.

The Joint Select Special Committees of the Legislature on governmental reorganization with the assistance of the commissioner shall prepare a plan of organization of the department into such bureaus, divisions and sections as may be necessary to carry out efficiently the work of the department. The committee with the assistance of the commissioner shall prepare legislation to be presented to a Special Session of the 105th Legislature to amend, repeal, and rearrange statute to reflect this department's power, responsibilities and organization. We are following the exact same steps. I would hope that Representative Norton would push the proper button and join with us so we can right a great wrong.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't planned to stand up once. I certainly hadn't planned to stand up twice. Representative Carter from Winslow, in referring to my pressing the right button, I will be pressing the right button as I see that right button, but it won't be the one that you are hoping I will press.

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

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

At this point, Speaker Martin resumed the Chair and called the House to order.

The SPEAKER: The pending question before the House is the motion of Representative Wentworth of Wells that the House indefinitely postpone House Amendment "A" (H-1130). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 255

YEA - Aikman, Anderson, Ault, Bailey, Begley, Brewer, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Pendleton, Pines, Reed, Richards, Seavey, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Aliberti, Allen, Anthony, Bell, Boutillier, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey,

Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Larrivee, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McKeen, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tamaro, Townsend, Tracy, Walker, The Speaker.

ABSENT - Chonko, Constantine, Gould, R. A.; Hoglund, Jackson, LaPointe, Lawrence, Luther, Marston, McSweeney, Moholland, Paradis, J.; Parent, Ridley, Tardy.

Yes, 51; No, 84; Absent, 15; Vacant, 1; Paired, 0; Excused, 0.

51 having voted in the affirmative, 84 in the negative, with 15 being absent, and 1 vacant, the motion did not prevail.

Subsequently, House Amendment "A" (H-1130) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Reduce Health Care Cost and Enhance Medical Care through Tort Reform" (S.P. 1006) (L.D. 2498)-In Senate, Referred to the Committee on Judiciary which was tabled earlier in the day and later today assigned pending reference in concurrence.

Subsequently, the Bill was indefinitely postponed. Sent up for concurrence.

On motion of Representative Mayo of Thomaston, the following was removed from the Tabled and Unassigned matters:

Bill "An Act to Transfer Jurisdiction over County Jails from County Government to the Department of Corrections" (H.P. 857) (L.D. 1189)

- In House, Passed to be engrossed as amended by Committee Amendment "A" (H-445) on June 9, 1989.

-In Senate, Passed to be engrossed as amended by Committee Amendment "A" (H-445) as amended by Senate Amendment "A" (S-279) thereto in non-concurrence.

TABLED - June 14, 1989 by Representative MAYO of Thomaston.

PENDING - Further Consideration.

Subsequently, the House voted to adhere.

On motion of Representative Gwadosky of Fairfield, the following was removed from the Tabled and Unassigned matters:

Bill "An Act to Help Fund County Government" (S.P. 850)(L.D. 2179)

TABLED - March 20, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Adoption of Committee Amendment "A" (S-577). Committee Amendment "A" (S-577) was read by the Clerk and adopted.

Subsequently, the Bill was indefinitely postponed in non-concurrence and sent up for concurrence.

The following items appearing on Supplement No. 65 were taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Communication:  
Maine State Senate  
Augusta, Maine 04333

April 13, 1990  
Honorable Edwin H. Pert  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Pert:  
Please be advised that the Senate today Adhered to Passage To Be Engrossed As Amended By Committee Amendment "B" (H-633) As Amended By Senate Amendment "B" (S-347) and "C" (S-352) thereto, on Bill "An Act to Extend the Exemption for Sales Tax for Certain Instrumentalities of Interstate of Foreign Commerce" (H.P. 438) (L.D. 603).

Sincerely,  
S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

PASSED TO BE ENGROSSED  
WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Establish Designated Positions Within the Department of Mental Health and Mental Retardation as Unclassified State Positions Subject to the State Employees Relations Act" (H.P. 1841) (L.D. 2512) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Representative BURKE of Vassalboro, Representative NORTON of Winthrop and Representative CARROLL of Gray)

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 64 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Bill "An Act to Encourage the Development of Programs of Assistance to Students Seeking Postsecondary Education" (S.P. 1002) (L.D. 2490)

Came from the Senate indefinitely postponed.

Subsequently, the Bill was indefinitely postponed in concurrence.

The following items appearing on Supplement No. 63 were taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Communication:  
Maine State Senate  
Augusta, Maine 04333

April 13, 1990  
Honorable Edwin H. Pert  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Pert:  
Please be advised that the Senate today Adhered to Passage To Be Engrossed As Amended By Senate Amendment "A" (S-740) on Bill "An Act Regarding the Maine Environmental Protection Fund Air Emission Fee Schedule" (H.P. 1840) (L.D. 2511).

Sincerely,  
S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

ENACTOR

Later Today Assigned

Resolve, Authorizing the Conveyance of Certain Public Lands and the Settlement of a Boundary Line Dispute Involving Public Lands (H.P. 1779) (L.D. 2446) (C. "A" H-1062)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative Gwadosky of Fairfield, tabled pending final passage and later today assigned.

The Chair laid before the House the following matter: RESOLUTION, Proposing an Amendment to the Constitution of Maine to Ensure Proper Oversight of State Spending (H.P. 1793) (L.D. 2459) which was tabled earlier in the day and later today assigned pending adoption.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: Several hours have gone by since my good chairman discussed his Constitutional Amendment but I would like to make some comments on the Record. Before discussing the bill, I would like to point out to this body that this Divided Report is the only Divided Report out of Appropriations this year out of a total of 148 bills.

I would like to publicly commend my colleagues on the committee for their work this session. It is certainly much more difficult to make decisions when financial resources are limited than when the economy is flourishing. We have all been frustrated by shrinking dollars.

However, we have been able to agree on a reasonable balanced budget at a time when other state legislatures, which face the same fiscal problems, have resorted to partisan paralysis and/or raising taxes. I am proud of the work that we have accomplished together.

This is, as I mentioned, our only Divided Report and I would like to address the proposed Constitutional Amendment and discuss very briefly the concerns that I have. First of all, it is not even a really small step, I think it is a giant leap toward the beginning of a full-time legislature. It is an attempt to micro-manage state government and, as I see it, we will be working looking over shoulders and second-guessing every minute decision. I don't believe that legislators are professional managers.

I am also concerned that it shows little respect for the separation of powers. The legislative role is to make broad policy decisions, not manage state government on a day-to-day basis. I think this Constitutional Amendment sounds very innocent but in reality is very intrusive. I hope you will vote against it.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I realize that the hour is late and we are pushing towards a close, hopefully, but I couldn't let the comments of the good Representative from Yarmouth go by without a response.

The concern that we will be looking over the shoulders -- I think Representative Carter has very eloquently expressed the reasons why we have to be looking over shoulders of some people because of some of the things that have taken place just in the last

month or so, just in the last year or so. Keep in mind that the budget that we just closed down was first delivered to the legislature about a year ago and the original projections from that budget were \$270 million off. That can give you a pretty good indication why, when there are problems with projecting, when there are problems with revenues, the legislature needs to be around to have a say in what goes on.

Let me give you a specific example of a situation I brought before Appropriations just this last Saturday or Sunday dealing with (specifically) the Division of Fraud. The Division of Fraud for those of you who may or may not know was first established back in 1972. It was originally put in the Audit Department and their broad responsibilities at that point were to investigate reported acts of fraud or attempted fraud. Their responsibilities of that particular unit haven't changed since 1972.

In 1974, the Fraud Investigation Unit was moved to the Department of Health and Welfare, which is now Human Services and the unit operated until 1982 with a director, two investigators and a clerk.

In 1989, in anticipation of increased funding and the implementation of a new ASPIRE program, four new investigators for a total of 7 were added. For approximately 15 years, the Fraud Investigating Unit operated without a unit budget and their sources came from a variety of divisions and bureaus within the Department of Human Services.

In 1989, at the urgency of the Director of the Fraud Division who encouraged the unit to apply for federal funds for several years, they actually did apply for federal funds and were the recipients of many federal dollars to actually run the Fraud Unit. Ironically at the same time that they received federal funds for the first time in their existence, the Fraud Unit which was at one time a very cohesive and identifiable unit, was being dismantled administratively by the Department of Human Services. They did so without notifying the Human Services Committee, they did so without notifying the Appropriations Committee. They completely dismantled it so it is no longer a single identifiable unit. We received information and we provided a report to the Joint Standing Committee on Appropriations in regard to the extent of fraud and the need for investigation. We said at that time not to focus too much on the numbers because we knew there were overpayment cases going on throughout state government in AFDC, we knew there were overpayment cases going on in food stamps. Our concern was that, unilaterally, the Department of Human Services would abolish the Department of Fraud, willy-nilly, without even bothering to notify the Joint Standing Committee on Appropriations or Joint Standing Committee on Human Resources. They took those fraud investigators and put them into Child Collection Support, which is a worthy cause, but we already received federal funds for collecting child support payments. The Fraud Unit itself needs to collect and is responsible for collecting fraud payment. We receive 75 percent federal funds for doing just that, to the extent that if we do not bring down the level of fraud in this state, we then begin to lose federal funds.

A second concern of many people was the area of confidentiality to the extent that you have more people, as Representative Carroll said, stirring the soup when you take those investigators and put them all throughout DHS. There are many state and federal laws in regards to the confidentiality of those records. I think you have more people looking at those records and that makes the problem even worse.

We presented this information to Appropriations and we said maybe that unit ought to be put back together. Maybe we ought to go to the Attorney General's Office, maybe that unit ought to go to the Audit Department but maybe Appropriations ought to look at this and someone ought to answer why this department has been dismantled at a time when we can't afford to be overpaying AFDC, we cannot afford to be overpaying any other type of program such as food stamps. We presented that to the committee and the Commissioner of Human Services Rollin Ives said that the figure we floated by of about \$5 million was ridiculous. He said we were in fantasyland if we believed that figure. He brought up his aides who then told us that the person responsible for providing the information, the director of the fraud unit, had been a problem employee for a long, long time. They questioned his samples and said that we had to understand that all this person did was take two pages of a report and then extrapolated what the dollars would be.

Since that date, we have received additional information, thanks to a newspaper article appearing in the Lewiston Sun, who were appalled at the comments of the commissioner so we got more information than we ever thought would be humanly possible. We found out that it wasn't a case of circumstance where a single director took a look at a couple of pages and extrapolated the results -- they gave us the entire file of overpayments for AFDC and food stamps. If you look at those cases, you will see quite clearly that in some 5,623 AFDC cases, there is a total in overpayments of \$4,975,000. Food stamps was 9,000 cases, total overpayments of \$2,410,000. Total amount owed to the state currently in overcompensation is \$5,379,000.

Ladies and gentlemen of the House, this is the type of thing that goes on when we are not here in Augusta and that is exactly the reason why we need some sort of oversight to make sure that this stuff doesn't happen again. We have a responsibility to all our constituency back home and to do any less than pass an amendment to provide for this type of oversight would be a disservice to those we represent.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Men and Women of the House: The gentlelady from Yarmouth, Representative Foss, has given you the reason why we should enact this legislation and that is to prevent the legislature from becoming full-time. If we don't do this, we are going to be forced into being a full-time legislative body.

What is happening when we are not here, as Representative Gwadosky has just pointed out to you, is just the tip of the iceberg.

This past week we had the commissioner before the Appropriations Committee and you have heard me complain about the difficulty of getting information from the various departments -- I have been told by both persons approached by this commissioner, the Commissioner of Human Services, that they had been approached and offered a deal. The deal was, you vote against Representative Carter's Constitutional Amendment proposal and I will fund your bill in-house, one was a Representative and one was a Senator. The answer, of course, was "no thanks." Is that a deal, is it a bribe? What was it?

If a legislator were to do something like that with a bureaucrat, he would be hauled in before the Ethics Commission.

There is an article that just appeared in the KJ of a former legislator who approached an official and now they are questioning violation of the code of

ethics. All around us people are being held up to abide by high conduct but yet the bureaucrats all seem to be exempt. There is absolutely nothing that we can do. You ask for information, they actually lie to you. They stand before us, look you straight in the eye and without batting an eyelash, they lie. That is no way to operate government. That is why we need this Constitutional Amendment. If we don't pass it, we are going to pay for it. I would urge you to support this Constitutional Amendment.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I come at this proposal from a different angle than my colleague, the House Chairman of the Appropriations Committee. I think that some of the events we have seen over the past year in regard to our fiscal policy here and our fiscal actions in the State of Maine take a lot of consideration from a lot of people. They take the consideration of the body which is set up constitutionally to deal and dispose of the Executive Department's budget.

These are very different times. If you have watched the stock market or watched economic activities throughout the world, they are very much a changing times financially. We have seen major corporations downturn their revenues three, four and five times during this past fiscal year whereas the state's fiscal matters have been lagging in downturning the revenue, which almost caught us off balance to the point of jeopardizing our good credit rating and jeopardizing our ability to perform in a financially responsible manner.

We need this oversight because we need the participation of the Legislative Branch of government in helping the Executive Branch, no matter what party, no matter who is in office, perform their functions because these economic times are changing.

I do not promote a full-time Maine Legislature, I think we have an excellent legislative system here in the State of Maine. As I have seen other states perform where they have separate committees of House and Senate operations and separate committees of full-time legislators, I don't think they do as well as we do here in the State of Maine. I think the Representative from Yarmouth, Representative Foss, pointed out that one of the great success stories of the northeast of which happened these past years, a success story which said we had a very volatile political climate, we had a very volatile economic climate, and we had a very volatile system of finances predicted to us as a legislature the first of the year. We have resolved those problems. Although you and I may disagree with some of the financing mechanisms, and you all know my feelings on that. As I stated yesterday, we have resolved it for the people of the State of Maine and I think to the benefit of all our constituents. We do need a participation from the Legislative Branch of government to get the job done, to perform the responsibilities of a balanced budget.

What Representative Carter has brought forth to you is brought out realistically, about some of his frustrations that he has had with state government over the past year. He has seen the great sigh that comes out of these state office buildings as we drive home, the great sigh that says "They've gone, we can now take control again." None of those people were elected by their constituency here in Maine, they were appointed or hired through a personnel system that gives them classification. We are the people who answer to our constituents on a biennial yearly election of which is a great process and we are the

ones who are responsible financially for the sound operation of this state government.

What Representative Carter has brought forward is a mechanism to help make this process better. No matter who becomes Governor January 1, 1991, you will need the participation financially of a eager and helpful Legislative Branch or I believe and predict that this state will, again, be in financial chaos come January.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, I would like to pose a question through the Chair.

To Representative Carter, does this problem exist in former administration's or only in this one?

The Representative from Island Falls, Representative Smith, has posed a question through the Chair to Representative Carter who may respond if he so desires.

The Chair recognizes that Representative.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: We on the Appropriations Committee don't always agree with the person who is on the second floor. On many occasions, we disagree but never, in all the years that I have been here, have I seen the lack of cooperation that we have been receiving from the present administrators. You know, a Governor is only as good as the people that he surrounds himself with. He has some good, able-bodied administrators but he has some who are very, very incompetent. Believe me, they don't make him look good. Those are the ones who are causing us the problems. If any former administrator or any former Governor had that type of administrator around him, we would have criticized him just as much as we criticize the present administration. We have done that in the past with some of them, that is the process, we are equal branches. This is not special to this administration. I hope in the future that we will prevent this sort of thing from happening and if we had the tools to work with, it would not re-occur.

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

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

The SPEAKER: The pending question before the House is final passage. This being a Constitutional Amendment, a two-thirds vote is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 256

YEA - Adams, Aliberti, Allen, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, Dore, Duffy, Dutremble, L.; Erwin, P.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, LaPointe, Larrivee, Lisnik, Mahany, Manning, Martin, H.; McGowan, McHenry, McKeen, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Rolde, Rotondi, Ruhlman, Rydell, Sheltra, Simpson, Skoglund, Stevens, P.; Swazey, Tammaro, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Conley, Curran, Dellert, Dexter, DiPietro, Donald, Farnsworth, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings,

Hepburn, Higgins, Hutchins, Kilkelly, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Pendleton, Pines, Reed, Richards, Seavey, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Anthony, Chonko, Constantine, Gould, R. A.; Høglund, Jackson, Lawrence, Luther, Marston, Mayo, McSweeney, Melendy, Moholland, Paradis, J.; Parent, Ridley, Tardy.

Yes, 77; No, 56; Absent, 17; Vacant, 1; Paired, 0; Excused, 0.

77 having voted in the affirmative and 56 in the negative with 17 being absent and 1 vacant, L.D. 2459 failed of final passage. Sent up for concurrence.

The Chair laid before the House the following matter: An Act to Require the State to Provide Full Funding for All Mandates Having an Impact on the Expenses of County and Municipal Governments (H.P. 1783) (L.D. 2453) (C. "A" H-1124) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I know the hour is late, I will not prolong this any more than I have to but I cannot sit in my seat and let this go by without bringing it into the sunshine.

What we have before us is a ruse or a farce in an attempt to mislead municipal officials, county officials, into believing that we can prevent the legislature from passing mandates on to communities without funding them.

I have before me two opinions from the Attorney General's Office. Let me read you the first passage of the Constitution. "A general diffusion of the advantage of education being essential to the preservation of the rights and liberties of the people to promote this important object, the legislators are authorized and it shall be their duty to require the several towns to make suitable provisions at their own expense for the support and maintenance of public schools."

There are numerous court cases dealing with these issues. There is one that includes Jones versus Maine and the State Highway Commission, there is one that includes Baxter versus the City of Waterville Sewage District, there is one versus the Maine State Housing Authority and Depositors Trust Company and on it goes.

Let me read to you from the one dealing with the State Housing Authority versus the Depositors Trust Company. This was a court case and this was the opinion of the Justices in the 1951 case. I quote, "In particular, with regard to making appropriations beyond the two year life of a particular legislature, the Justices of the Maine Supreme Judicial Court have stated, the Legislature cannot obligate succeeding legislatures to make appropriations. One legislature may, within constitutional limitations, impose a contractual obligation upon the state which it is the duty of the state to discharge but one legislature cannot impose a legal obligation to appropriate money upon succeeding legislatures." This is the opinion of the Justices. It goes on, "Moreover, the Justices observe any attempt to create obligations which would be binding upon succeeding legislatures, not only violates the prohibition against one legislature binding the next, but it would also violate the provisions of Article 9, Section 14 of the Maine

Constitution which forbids the creation of debt or liabilities in excess of \$2 million without a bond issue."

In questioning the Attorney General's Office on this issue, I was told that we can pass this piece of legislation, you can vote for it, you have an option but the proposed legislation is as in their words "ineffective." You don't even have to use the word "notwithstanding." To negate this proposed piece of legislation, it is according to their own words "ineffective." Furthermore, I am told that you can't even bind the next Special Session if one occurs during this fiscal year. That, too, is unconstitutional.

The option is yours, if you want to go along with this you can, but the proposed piece of legislation is just as ineffective as the one we passed with educational mandates last session.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: This was a unanimous report out of the Appropriations Committee and I would frankly prefer not debating it at 11:15 p.m. but since it has been opened up, I do have a lot to say about this issue.

One is the conspicuousness of the constitutionality argument, it is simply a smoke screen to hide behind. There is a big difference between unconstitutional and not effective in Cab Howard's letter or non-binding. I have that letter and I will quote it or you may see it. "I understand we can't bind a future legislature but that also holds true for general purpose aid, for any of the other hundreds of programs that we fund, the entire Part I Budget for existing services could be completely changed by the next legislature. I am looking for a commitment from state government to pay for its own decisions."

I would also quote in the opinion by Mr. Howard "There is no reason, of course, why the legislature cannot continue this statutory policy if it so chooses. The significance of the principles just set forth is only that it may change the policy as well."

Since being elected to the legislature in 1984, I am sort of known as being on a personal crusade against unfunded state mandates. At times, I probably am a bit boring about it. Its response here in Augusta has reigned from ridicule, from calling it a sham, sexy political issue and some even a little bit more derogatory. It moved to apathy, who cares, to finally as we in this legislature have shared some of the same financial pressures as towns and cities have faced with their reliance on the property tax, finally there seems to be a real concern with what costs we have passed on to the local level.

Now that I have started, I have a lot to put in the Record on this issue. I want to quote a very powerful editorial voice that joined in this the other day. Bangor Daily News, April 9th, long Editorial. "Paying for Mandates" and I will quote a portion of that. "The Bill demands two things, that the legislature consider the financial implications of its actions to municipal and county government. If there is a cost in a new law to these jurisdictions, the state must pick up the tab. The legislature historically has had the best of all worlds, it could conceive of programs that it believed were well-intentioned and desirable, pass legislation making these ideas law, then return to its Augusta think tank, while the locals pay the piper. No more."

Most of you know that I served on a school committee for six years before coming to the



legislature. I am well aware of the problems facing our local governments. We all know they have one major source of income, the property tax. We all agree that this tax is regressive and it is outdated as an absolute determinant of one's ability to pay. Therefore, when the legislature passes unfunded mandates, we reach into every municipal budget and rearrange their priorities because those mandates must be funded by the property tax first before a town council or city council can decide its own priorities. We on the Appropriations Committee are well aware that the federal mandates that are unfunded do the same thing to state and local budgets as well.

A positive result of our budget deliberations as we have addressed the slowing economy and declining revenues has been a shift, in my opinion, in mindset here. We have had superintendents, town managers, municipal officials crying out for relief for unfunded mandates. We all have an increased awareness of what those mandates from the federal government have done to our own state budget and what unfunded mandates have done to municipal and county budgets from the state level.

Representative Carter referred to my bill, which was introduced in 1987, as being basically unnecessary. In fact, probably even in more negative terms was a reference. It did put a lid on unfunded education mandates. Frankly, we haven't had one since without proper funding. I am a major proponent of education but, if we make the decisions up here, we should be paying for those decisions. Some have criticized that proposal for not going far enough. It is only 100 percent cost for two years, then it is folded in the formula. That was all I could get at the time in the face of the opposition. The brakes have been applied in that area. I think it is time that we extended that sort of philosophy to all areas including environmental mandates which I think are beginning to drive up the cost of our local budgets.

I would like to read a couple of other letters. I have a letter from the town selectmen in Van Buren which was forwarded to me by the good Senator from District #1, Senator Theriault. This is from the Senator. "Dear Representative Foss: Please find enclosed a copy of a letter from the Van Buren Town Council. I fully agree with the signers of that letter and I think we need to take the courageous stand and stop passing the buck to the town on bills that we pass and don't fund. If we can't fund the mandates, then maybe they are not important to become law. I further urge the committee to recommend to the legislature to suspend all mandates that we have on the books that we can't fund at this time. I urge you to please consider these recommendations. Sincerely, Senator Ray Theriault."

I would also like to read from the Legislative Bulletin of Maine Municipal Association dated April 6, 1990. "Mandates, like many good ideas, have a time and a place and that is when the state has enough money to fund them. The issue of unfunded mandates is, very simply, about fiscal responsibility and accountability. MMA strongly supports L.D. 2453 and hopes that this is the year the legislature agrees that, if a program is worthwhile enough to pass, then it is important enough to fund through state funds rather than the regressive property tax."

I think it is time we say, no more unfunded state mandates. I think we owe it to our citizens and to our local government.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

I understand that this bill requires that the state pay for all mandates enacted after July 1, 1991. I would like to know what the penalty is in the bill that is imposed upon the state if we don't meet that requirement?

The SPEAKER: Representative Cashman of Old Town has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I would assume it would not have the force of law.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I share your puzzlement.

After listening to Representative Carter and Representative Foss debate this, I think that the points made by Representative Carter are in fact accurate that it would indeed have the force of law. You won't even have to put in a bill, other laws notwithstanding or whatever that phrase is we use around here all the time.

If you want to talk about a smoke screen, this is a smoke screen. I don't think Representative Carter's objections are a smoke screen, the bill is a smoke screen. If you want to go home and show your town selectmen and city councilors that you voted for something to help them out and you want to carry this roll call into their office and the city managers office, go ahead. Then tell them what the penalty is if you don't meet the objections because there isn't one. That is why it won't do any good. I think everybody here knows that, but if it makes you feel good to take it home with you, vote for it.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I feel as though I was going through a moment of *deja vu* because I believe we heard this same debate in 1987 when we had the education mandate bill before us. True that the word notwithstanding could be added and take away the effect of the bill. This bill does two things, like the education mandate bill, it will have the committee sit down and assess what the impact will be to the local municipalities. Hopefully before they pass the bill, the money would go along with that proposal. If they choose not to and they put the word "notwithstanding" in, then so be it. At least then we will know when it comes to the floor of the House that it has a cost to our municipalities.

One of the problems I have is I can watch on the Education Committee and let you know if there is going to be a mandate or a cost that is going to go on to the locals and I think my 12 to 1 Divided Reports are evidence of that, but I can't be sure that every other committee is going to do this. I have a list here of bills researched by MMA since the 11th Legislature on mandates and I voted for a lot of these. I am sorry to say it but I voted for a lot of them, I didn't even know they were mandates. You can get a bill out of Transportation or Natural Resources and you don't always know that that has a mandate in it. At least if it had "notwithstanding" at the beginning of the bill, you would have a chance to say, hey, this is going to pass on a cost, you could look at the bill, assess whether or not it is something you want to pass on to your municipality before you vote for it. I think this bill has the

potential to be a very, very cost saving measure for our towns and I think it is also an enlightenment bill so that legislators will know exactly what they are voting on before they vote on it.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: Just very briefly. I think I am going to support whose smoke screen is really being disbursed in this House in that -- I will give you an example of why I think a policy like this makes no sense and is probably next to impossible to administer which is why I think you might be misrepresenting to the municipalities, the counties and the local districts in the state, something that just may not prove to be accurate.

For example, L.D. 2359, which is sponsored by the Representative from Bath, Representative Small, "An Act Relating to Restructuring of Maine Public Schools", the fiscal note on the Committee Amendment states, "The Department of Educational and Cultural Services will incur some additional costs to encourage school restructuring and to assess and report on the status of school restructuring efforts. These additional costs can be absorbed within the existing budget of resources of the department. This bill may also indirectly affect expenditures by local school units and, consequently, general purpose aid for local school. However, this cannot be determined." I guess my question is, and this probably goes back to the law that was passed in 1987 -- at the time, I believed (I was on the Appropriations Committee) it would be rather ineffective. I guess I would have to seriously question whether or not that bill could be passed based on that policy that Representative Small mentioned, which was enacted in 1987. If we cannot determine whether we are going to have an impact on local school districts, then it might very well become an impact on local school districts and, therefore, we would have to pay for that cost. That, I think in a nutshell, can tell you the sort of problems this kind of smoke screen can create in trying to deal with public policy questions. How you deal with mandates and local school districts and municipalities and counties is on a case-by-case basis. You vote, you put your light up there and you make a decision, that is accountability.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I want to applaud the gentlelady from Yarmouth, Representative Foss. I believe she is sincere in trying to do what she is trying to do.

I can wear a different hat this evening, I happen to be a town councilor, charter member since 1969. I am very well aware of the problems experienced by the local communities and mandates. I was also a cosponsor of L.D. 1994 that would have eventually required the state to pick up 100 percent of the cost of education. Unfortunately, Mary Adams came along and, like all the well laid plans of mice and men, it went astray.

Another point that I would like to bring to your attention is the fact that county government does not have the right of self-determination. They cannot function unless the legislature tells them what to do. I would like to see this go through because then it would require us to fund county government for 100 percent because whenever we pass their budget, it is a mandate.

The last point I would like to make is the same point that I asked the Finance Commissioner when he

appeared before the committee to support this piece of legislation. I asked him if he was aware that this bill was ineffective and unconstitutional and that the only way that it could really have any meaning was to have a Constitutional Amendment. I asked him if he had contacted the AG's Office to find out if it was constitutional and the answer was, "no." I asked, "Why not?" I got no answer.

If the gentlelady is really serious as I think she is, then I would respectfully ask her to sponsor a Constitutional Amendment to wipe out Part I, Section I of Article 8 of the Constitution as the first step and that would go a long way in slowing down mandates.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: Just to clarify this and move aside some of the smoke that has settled on this side of the House, when the good Representative from Lewiston was talking about the restructuring bill and why there was no price tag for the locals on it, I think he failed to read the part of it that says restructuring is not a mandate, it is an option for schools right now. So, I don't believe the onus is on the legislature or this state department to determine the cost because that is a cost that they may choose or not choose to go into. It is (right now) a pilot program for a number of schools but it is not a mandate. Were it a mandate, then I think we would have to assess the cost and then fully fund it.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: When I was first elected to this legislature, I introduced a Constitutional Amendment that would have made unfunded state mandates unconstitutional. There was testimony in opposition to this proposed Constitutional Amendment that was offered by Rodney Scribner who was an employee of Governor Brennan at that time. That testimony to me indicated the essence of what this argument is about. Mr. Scribner used the example of a local fire department and the equipment that local fire fighters ought to be required to have when they are fighting fires. He said in opposition to this Constitutional Amendment that this amendment would make it impossible for the state to say that there were certain safety standards that ought to be applied for fire fighters boots. He said, it may be absolutely necessary for these fire fighters to have more safe boots than the boots that they now have and this Constitutional Amendment would prevent the legislature from passing a law to set these safety standards. It seemed to me that that was just exactly a point that I agreed with because, if we are going to set those standards, we ought to pay for it. If we don't want to pay for it, we ought to allow the local communities to set those standards themselves.

Unfortunately, that Constitutional Amendment did not pass this legislature but the State and Local Government Committee worked very, very hard with that legislation and Representative Gwadosky was the Chairman of the State and Local Government Committee that reported out a bill unanimous "Ought to Pass" that was fairly close to what we were trying to accomplish here. Unfortunately, that bill ultimately failed on the Appropriations Table.

The Constitutional Amendment would have said that the state legislature is responsible for laws it passes and has to pay its bills and that the local communities would be responsible for their own

bills. Without that kind of protection, the local communities are left paying for our bills as well.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, may I pose a question to the Chair.

I supported this legislation in committee but, as it went through our committee process, it had a fiscal note on the bill of \$50,000. My question to you, Mr. Speaker, was this bill funded off the special appropriations table and, if the answer is negative, would this bill be properly before the body?

The SPEAKER: In reference to the later part of the question, the Chair does not remember leadership taking a vote on the bill last evening as it came from the Appropriations Committee. Members of leadership may react to that differently than I.

The Chair would take a look, with interest. Reading the bill while the debate has been going on, I would quote from the bill. It says, "For the purposes of this section, a state mandate meets any state regulatory or statutory action that requires county or municipal government or a unit of county or municipal government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures from local revenues excluding any order by a state court or any legislation necessary to comply with the federal mandate." Apparently, it does not exclude orders from the federal courts. The committee subsequently added this fiscal note. It says, "This legislation will generate additional staffing costs to the legislature in fiscal year '91-92, the exact nature of which cannot be determined at this time."

The Chair notes with interest the proponents of this legislation who want to cut the legislative budget.

The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: Mr. Speaker, I have a few comments to make and then I, too, would like to pose a question to the Chair.

My comments are based in the direction of this bill. I guess this bill is one of those bills that makes you feel good and all that and probably you should vote for it and bring it back and say you did something. One of the points that has been brought up on Energy and Natural Resources is that, every time we pass environmental laws, it causes cost and expense to a county or municipality and they have to pay for it. I have said it before and I think all my colleagues will agree that, on many occasions, I said I would just as soon not pass any, none. Then when a town gets in trouble, it would be on its own, but that doesn't happen. We have towns that don't like mandates so they have no ordinances. They don't have any zoning ordinances, they don't have any shoreland ordinances, they don't have any building ordinances, they don't have any ordinances. They want to be free, wild, and happy and let the wind blow through their hair.

Patten comes in, a developer comes in, buys a big chunk of land, starts doing things and the town is in trouble. They don't have the sewer system to take care of the development, they don't have a road system, they don't have this, they don't have that -- they pass a moratorium, stop everything, they end up in court. The judge rules you can't have a moratorium forever friends, you have got to do something. What is the first thing a municipality does? They come to the legislature and say, you have to help us out. You have got to bail us out. The AG has got to defend us. I have seen it over and over

and over again on Energy and Natural Resources, six terms. I really would just as soon be able to say, no environmental law at all, if the towns don't want to take care of environmental laws, well fine. Then you get into the problem of one town that abuts another town, one town is very careless and doesn't take care of their (let's say) river or lake, the next town does -- what do you have? You have litigation because you don't have some of these mandates. I think that is going to be a problem if this thing is followed through and I think that Representative Cashman made a good point. It is another law that doesn't have any teeth, it is really probably a joke but I think it will maybe make you all look good back home if you vote for it.

In the last session of the legislature, I voted for an increase in the tax on liquor that people drink in a restaurant with their meals. I did so because I was told by the proponents that that tax was going to go to funding a health care package for the people of lesser means in the state. I will admit to you that that was not a popular thing back home. I guess I was duped. I have gotten letters from my hospitals and we are going to delay it. We are going to keep the tax but we are not going to do what we said we were going to do when I voted for it on the floor of this House.

My question to you Mr. Speaker or anyone who would care to answer is, since we are now in a government of paying the bills by delayed funding, what assurance do we have that, even if we pass this bill that says we must implement the mandates, that they are going to be paid for in the same year that we pass them? That is contrary to the way we are doing government in the last couple of years. I would like to have somebody explain to me -- would this bill guarantee that we are going to fund them for what we say we do? Certainly if I had known that the tax that we voted on on liquor was going to go to making someone look better instead of funding that health program to help my hospitals in my area, so that the people who pay the bills wouldn't wind up getting it wound right to them, I certainly would not have voted for it. I think somebody misrepresented themselves and they have changed it and I would like somebody to answer my question. If we vote for this wonderful bill, no smoke intended, no smoke flying, are we going to fund those mandates right off when we pass them, are we going to come up with some cash or delay it? Either one of you two ladies would be fine if you would like to answer it since you are advocating this position. I would really like to vote for this and go home and tell somebody I did a wonderful thing for the City of Waterville.

The SPEAKER: Representative Jacques of Waterville has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Rockport, Representative McCormick.

Representative MCCORMICK: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly. I am not very good at spreading fog but I would like to just mention where I think the teeth are coming from.

One of the reasons I am in the House is because I was serving as a member of the board of selectmen in my town and we were, very, very well-aware of the mandates and so were the people in my town and in the adjacent towns. I know of three more candidates that are running this year, brand new, who also served in local government and are involved in being candidates and running for the legislature because they have just about had all they want of mandates from the legislature. So, I think that is where your teeth

are coming from. I think you will see them getting sharper all the time.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: There have been a lot of interesting things said here tonight. One incidental comment, the Representative from Bath mentioned she had a copy of a list of mandates. I would love to see it some time. She mentioned the Energy Committee -- to the best of my recollection, every major bill out of that committee has been supported by the Maine Municipal Association. I am not sure you can call it a mandate even though it involves cost, if the very people we are talking about mandated on it, supported it. More importantly and more basically, this House, this body, are authorized by the people of Maine to act on their behalf and when we do act, it is the people of Maine acting. So, when the people of Maine pass a bill to protect the public safety, such as a bill requiring dump trucks to have covers so gravel doesn't bounce off into the windshields of following cars, are we to say that this bill applies only to some people and to allow other people to continue to endanger the public safety unless we pay for the changeover to pay for those tops? Some people must pay for their tops and other people don't have to obey the law unless we pay for it? Why shouldn't we apply the same exemption to everybody who might be subject to the laws? When we pass a law that says that people may no longer pollute a river or groundwater or aquifer, are we saying that some people can continue to pollute until we pay for the cleanup, while other people must pay for the cleanup themselves? A basic principle on pollution is that the polluter pays. It is not fair for anyone but the polluter has to pay. This has been a focus of a major argument in Washington under the Clean Air Act. Should the Northeast that has already cleaned up its air pay for the midwest costs to clean up the midwest's air?

If an agency in carrying out a bill which we have passed establishes a set of regulations and they decide that there is something that doesn't make sense in those regulations, that they are not working right, that they do not meet the spirit of that bill, so they revise those regulations and that revision might result in an increase in costs to a town of \$1 in this state, does that mean those revisions have no affect until we come back into session to appropriate \$1 to pay that cost for that town? I think you can see where I am going -- we, the people of Maine, as embodied by this legislature, act on behalf of the people. The towns are entities and creations of the state, the state is not the creation of the towns. The towns are the creation of the people and we are authorized by the people to impose restrictions and rules on those towns in the form of laws. Towns cannot commit certain crimes. If in fact a law we passed saying a town cannot commit a crime means it is going to cost the town more to do something, should we pay that extra cost or should we say, no, that is all right, break the law, commit a crime because we don't want to pay the cost.

Ladies and gentlemen, you can see this bill, if passed, will create an Alice in Wonderland in Maine.

At this point, the Speaker appointed Representative Gwadosky of Fairfield to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

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

Representative MARTIN: Mr. Speaker, Members of the House: I have heard it before, standing at the rostrum. I hadn't planned to speak on this bill but some comments that have been made compels me to speak to you.

First, some comments about the bill in the way it is drafted. It leaves out, if you noticed as I was reading it to you when the question was posed to me, "Federal Court requirements," I assumed that those would be provided and would have to bypass mandates and requirements and this legislature's ability to control.

The one that really caught my eye was the one that says that this bill will require additional legislative staffing. At a time when this legislature has cut better than \$1 million from its budget and has tried (in bipartisan fashion) to provide for as many cuts as possible, in my opinion, doing far more than perhaps we should have, but we have done it and to think that next year we will be adding legislative staff leaves me somewhat cold. I had not seen that amendment, I had seen the original bill, so the \$50,000 that was imposed originally by the fiscal office, was subsequently removed. Now it only contains the provision "future costs." Quite frankly, this bill is not only a joke to the citizens of Maine but it is a joke to this legislature because what it does is, if you vote for this bill, you are in effect voting to add \$50,000 to the legislative budget for additional staffing or cutting \$50,000 somewhere else, one or the other. Of course, the option is there.

I don't know how many of you are aware of this but we have made a number of delays ourselves in order to try to preserve the integrity of the legislative process. We have made a number of cuts which I will not discuss here. As I was thinking of this whole issue, what really came to mind was what I have been going through in my role as President-Elect of the National Conference of State Legislatures and what will happen this coming Fall. One of the things that is now the top priority item for the NCSL is what is going on in Washington and has been for the last ten years or so, that is to pass laws and to require the states to pay. In the last biennium, I believe \$60 million alone in Medicaid costs the state has had to absorb and pay or cut programs in that amount. The legislature paid and put it in the budget. You can go item by item through that whole process and find out what has happened. One of the priorities has been to try to get the federal government to not set mandates but to allow some flexibility which we have not been successful in getting the administration to agree to at this point.

I think what we need to remember is, when we talk about a program for the people of Maine, we are talking programs for all of Maine, not just for my hometown, not just for Portland, but for the entire state. I know that some of us are concerned about requiring municipalities but I would remind you, especially in the field of education, if you believe that we ought not to be requiring schools and municipalities to pay for those schools and programs, then you need to revise the Constitution of the State of Maine. If you look at the Constitution, it specifically says that the legislature shall, and the municipalities shall pay for those programs that are mandated by the legislature on behalf of the people

of Maine. That is in the Maine Constitution and here we are today saying, forget the Constitution, it doesn't mean anything. That really bothers me as a person who has studied government for more semesters than perhaps some of you wish I had. We have to remember that that document does mean something.

So, when you vote for this particular bill today, keep in mind the provisions of the State Constitution. Keep in mind what the Supreme Court of the United States and the Supreme Judicial Court of the State of Maine had said, "no future legislature can bind the other."

I raised the question in regard to the pay raise that was given to state employees by Governor McKernan. You may remember that it goes into the third year and goes into another biennium completely on July 1, 1991 and I asked the question, "Is the contract binding?" The answer is, no. Morally, yes; legally, no. Maybe you were not aware of that, but that is the reality. Obviously as a member of the next legislature if I return, I intend to vote for the funding of that contract because I was a party to this one, but remember, that need not happen.

Here we are talking about a piece of legislation and, frankly, wasting our breath, our voice, and our time because it will have no meaning and will mean nothing except to be used in campaigns, that's all. If you really want to know the truth, this piece of legislation is from the Governor for one purpose alone, for politics. Let's be honest, there is nothing wrong with being honest about these things you know. It says right on the bill "Governor's Bill" so it is not a question about whose it is and, what is even more ironic about the whole thing is what is being postponed into the next biennium by this administration, sales tax credit, the investment credit, the state employees contract, moving dollars forward and backward, putting it into the next biennium to be paid by the citizens of Maine and the next legislature has to fund it. If this legislature were to take the Governor's program and provided it to organizations who do labeling, it would have failed. It would have failed miserably, the labeling of truth, because it does not meet the straight-faced test in any manner, shape, or form in this budget. By all means, if you want to vote for it, please do, but please do so because you know that it is because you want to use it for political reasons, that is the only reason. Let's be honest about that at least because it accomplishes nothing and it doesn't even make you feel good. So, please let your conscience be your guide.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, my Learned Colleagues: Last year, I put the same bill in. I said that any mandate should be paid by the state. Why did I do this? Because I sent out a questionnaire and it came back almost 90 percent from the people that answered that questionnaire, the people that I represent said to me, I am sick and tired of having mandates come down from the State House, please stop it. That is the reason that I put it in, it was not because I am running for office again this year, it was because there was a mandate from my people that I represent.

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

Representative MARTIN: Mr. Speaker, Members of the House: The Representative from Waterboro, Representative Lord, has been a member of the Energy and Natural Resources Committee now for a few years. Perhaps he might want to tell us about the bills that that committee that he as a member has voted for, has

mandated upon the municipalities, -- preventing spaghetti lots, septic systems, shoreline zoning, salt sheds, oil tanks -- were all of those funded?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, to answer that question, yes, a lot of them I did vote for and a lot of them that I am catching heck for too.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: When I first came here, I also put a bill in that would address mandates. That was a concern, it is still a concern. At the time I put my bill in, someone was sponsoring one from the Maine Municipal Association and I don't recall exactly who that was. It doesn't matter, the concern was there.

The Corrections Committee had a bill that would say to those who put bills in demanding mandated sentencing and so forth that they put a cost on so that they would know how much that was going to cost before they mandated these programs to the Department of Corrections.

I have had bills I sponsored for towns to become unorganized. Because of the mandated programs put upon them, they did not have a tax base to raise the money. I know this might be something just to carry home but it will be the only thing that I will have to carry home. It might be foolish to vote for it but I think we have got to tell the people, I can do nothing, I can vote, I can't get a bill through to help them but I can go on the Record and say, I am trying. If you can give me an answer that I can do something better than try, then help me, but I don't see it. I am going to vote for this and I will carry it home and say this is the best I can bring home.

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: From what we have heard in the last half hour or so, what I have summed up is that there is nothing we can do to help the people from being inundated by mandates as long as the legislature continues to be in session.

I would like to pose a question to anyone who would like to answer this, especially those who favor not trying to stop mandates. What protection do the people have from being inundated by mandates being imposed upon them?

The SPEAKER PRO TEM: Representative Look of Jonesboro has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Members of the House: I would love to answer the question. I think that we have to remember that we represent the people and those people are demanding services and they want to have those services, regardless of whether they live in Jonesboro, Jonesport, Eagle Lake, or Portland. Very often, we hear criticisms from those people who don't want services but we also hear the needs of people and the legislature tends to

react to that. In my opinion, what has happened over the years is that we as politicians are scared to talk about the fact that they have got to pay for what they get. The answer to whether or not there are more or less mandates really depends on the individuals that elect each one of us. Each one of us, in my opinion, have to represent those individuals. Remember, regardless of whether they are citizens in Island Falls who complain, the very people who will complain about mandates, very often are the same people who the next day will come in and say, why is the legislature not doing it? Usually it happens after a catastrophe. For example, the test scores in education are lower than what is expected. You may remember the last Education Reform Act -- people demanded change. Editorially, they demanded change in newspapers around this state. They wanted to have those changes occur. The legislature reacted. Of course, some people do not want to pay for those mandates now. The very people now who don't want them are the same people who pushed for them in many instances, not always. You and I both have constituents that would rather be left alone, not pay for anything, not worry about anything, and not get anything, but those are in the minority. That is what we always have to remember that we represent everyone, not only a small segment of society.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I, too, would like to answer that question. The answer is a very simple one, you look how the people voted that are representing you here in the legislature and when they come up for election, if they voted for any mandate you don't like, you throw them out. After about the fifth legislator you have gone through, someone will get the message and they won't vote for anything, then you will save all kinds of money because you will be able to come here, call yourself into session, and go home.

In Kennebec County, the biggest increase to our taxes, our mandates, has been the federal government sticking their nose into the Kennebec County Jail. Then every one of you that voted for more stricter penalties on OUI have put on the biggest single burden in Kennebec County that is relayed right back to the taxpayers of the City of Waterville that anybody could ask for, but we were all heroes when we voted for that. You all went home and said you passed a tough OUI law.

You take a bookkeeper who had three beers too many and you put him in jail for three days, we pay the bill, but we really showed him. The taxpayers are paying the bill. You sit here and say, what are we going to do about the mandates? Very simple, don't vote for anymore. Every one of these laws that cost money, someone in this House voted for, they sure didn't pass by themselves.

I voted against the Education Reform Act, do you know why? I knew we were going to get right into this mess. I caught the dickens for it. Representative Lord talked about catching heck for voting for some of these things. I caught some because I didn't vote for it. Half the people were mad because they thought I didn't want to fund education, the other part were happy because their taxes didn't go up three bucks a whack.

It just amazes me, they had Donald Trump on television one day and he was talking about the education in his hometown and he said, "You know it is funny, I went to lunch with Ted Turner and three

or four other guys, we went in this place, we spent \$50 apiece for a little bit of tuna fish and some fish eggs on some little crackers, never thought anything about it, and here Ted Turner was complaining because his property taxes had gone up \$18 in his town that helped improve the education system in that town where he lived. These guys are multi-millionaires.

I agree with Representative Smith, I am going to vote for this bill, I think it is a heck of a good idea, I am going to bring it home and wave it around, tell everybody I did a real good thing, I really did. Next year, when all of you that are going to be back here are here, you are going to have some more bills come up. You will be voting for the ones you like and then you will go back and say, geez, we had to do it because somebody got killed, we had to address that situation; our school system was going down the toilet, we had to address that situation; we needed a new prison, we had to address that situation and you are not going to be any farther ahead than you are now, only you really did something for them. You take that thing home and tell them Representative Smith and I will be right there with you kid.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: There has been a suggestion that there is something strange with the fiscal note. I would just like to clarify the Record. As you can see, the Bill would go into effect July 1, 1991 which makes it fiscal year '92. The Office of Fiscal and Program Review put on a fiscal note for FY'92 of \$50,000 some odd dollars to pay for an analyst in that department who would assess the fiscal impacts of pending bills. I just wanted to clarify that for the Record that it is a future cost, a legitimate future cost as we considered with other bills yesterday.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, I would like to pose a question through the Chair to Representative Foss of Yarmouth.

I have an opinion here from the Attorney General's Office. I was seeking to find out whether the Department of Education had the authority to pass mandates on to local communities by rules or regulations, not by legislation, but by rules or regulations. The answer that I got from the Attorney General's Office reads as follows, "Your inquiry raises two questions, first whether the state government as a whole may impose such requirements and second, whether the legislature may delegate the powers to do so to DECS. For the reasons which follow, it is the opinion of this department that the legislature may enact new educational requirements whether or not it specifically funds them and that the legislature may delegate this authority to DECS by means of an appropriate grant or rulemaking authority."

My question is, does the bill before us repeal this authority that DECS has? If it does not, will DECS have to fund any mandates that it proposes by rulemaking?

The SPEAKER PRO TEM: Representative Carter of Winslow has posed a question through the Chair to Representative Foss of Yarmouth who may respond if she so desires.

The Chair recognizes that Representative.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I do not have the specific opinion as quoted by Representative Carter. However, it is very clear that the bill, as written, that both

regulatory and statutory action that results in mandating costs at the local level would be included in this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: I really appreciate the example from the Representative from Waterville about OUI. A couple of other thoughts have occurred to me -- if this bill passes, what we will be saying is that the people from Island Falls, who are not polluting their river, will have to pay for the cleanup of the town of Brunswick's Androscoggin River. Is that what the people of Island Falls wants, that they must pay for the cleanup of Brunswick's pollution?

There are numerous examples. Essentially what this bill is a red herring. It purports to say to the people, we are taking care of the problem, when in fact we haven't. When the people find that out, whatever faith in government they have and whatever credibility government has, will further be undermined. If we want people to have faith in their government, we have an obligation to be honest with those people, not attempt to deceive them. This bill is an attempt to deceive those people, the people that we represent.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I didn't mean to rise and speak on this myself tonight but I felt I had to respond to a remark that my friend from Old Town, Representative Cashman, made. He said, do you want to vote for this bill and go home and tell your people that you did vote for this but it really isn't any good? I guess my question would be, when I look at the board and it says, "Provides Full-funding for All Mandates", I would hate awfully to vote against that and go home and tell my people I voted against it.

I come from a city that has just gone through a Proposition 3 experience that tore our city apart actually. We are just starting to recover. Representative DiPietro and I and Representative Anthony have gone to two or three meetings with our school board, our city council, we get hit repeatedly with the fact that mandates are what is killing our city. I don't think that is totally true but I do think that it has an impact on it. I think to go home and say that I voted against the bill, and the title of that bill was to fully fund mandates, that the state sent down, I don't think I would be serving my people. If you are talking about a political thing. I have never cast a vote in this House in my ten years that was influenced by politics. I vote the way I feel, I vote for what I think my people want me to vote for. As far as politics, I have no opposition, I am not going to go home and use it, I am just going to go home and tell my people that this is the best we can do. I am sorry, I wish we could do more. I know nothing about the Constitution, I am probably one of the few people in here that doesn't even know which page it is on but I was sent here to represent my people and I think I represent my people the best I can. By voting for this bill, hopefully, something will come of it that will be helpful to them.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Last week at a delegation meeting in reference to the school budget, which I

have the honor of serving on, a councilor pointed a finger at all the members and said, "When are you people going to stop mandating that this city do this, that, and the other thing? You are crippling our ability to function effectively." My answer was, Anybody that comes up to this House and says as far as mandates are concerned, we are going to go up there and see if we can pass this kind of legislation that is here today, you and I know that is just political dialogue.

I feel helpless here in trying to convince you that this kind of legislation, even if we pass it, can be funded to the extent that they expect out there. It is hypocritical kind of legislation.

Let's take it step by step. Let's take the responsibility of addressing mandates, not in an overall complete way as we are suggesting here at this time. You know that this cannot be applied as it is designed for us to address at this time. It is impossible. Are you going to fund mandates that my community wants? You've got a \$210 million deficit now -- what are you going to do as far as addressing those mandates?

I made a commitment that I was going to help address the mandates, I am going to do it, I am going to vote for this legislation. I have no alternative. What a hypocrite, I know that it will do nothing. That is not political, is it? I had a direct finger pointed at me and I tried to give them an answer as to why it cannot happen in this legislature. So, I am standing up here making a statement here on the Record saying to that councilor from Ward I, I did address your concern and I am going to vote that concern, but you are going to get nothing.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I come to this House through local government. I have served my time there, I prepared budgets there with state mandates that come from people who served here before I did. This year when the budget shortfall became evident, I went directly to my town council and to my school board and what I heard from them was, "Please do something about the mandates." What I did at that meeting was, I challenged them. I said, "Let me know which mandate it is you want repealed or you don't want to do. Do you want to go back to bigger classroom sizes?" They said, "Oh gracious no." That has been a position that our local school committee has taken. I said, "Fine, simply write me the list of mandates which you do not wish to comply with and I will present those and we will see what people have to say about it." I did not hear from one single councilor, I did not hear from one single school board member. When I went back to them a week ago Tuesday night, I asked them again, "Was there anything further that they wanted me to do before this session was over?" They said, "No, there really isn't anything you can do about the mandates. We want these types of things to be law across our state. What we want you to do is be careful." So what I heard was that they wanted a personal commitment from me so I don't need to take back a bill that doesn't do anything and say, "There, I am helping you out." What I am going to take back with me to my community is my personal word that I will watch the bills that come before my committee and that come before this body and won't vote for those that would put an undue burden on my community.

The SPEAKER PRO TEM: The pending question before the House is passage to be enacted.

At this point, the Speaker resumed the Chair and called the House to order.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Topsham, Representative Chonko. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Gurney.

Representative GURNEY: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Portland, Representative Høglund. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes. Those in opposed will vote no.

ROLL CALL NO. 257

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, Begley, Bell, Brewer, Butland, Cahill, M.; Carroll, J.; Clark, H.; Cote, Crowley, Curran, Dellert, Dexter, DiPietro, Donald, Duffy, Dutremble, L.; Farnsworth, Farnum, Farren, Foss, Foster, Garland, Graham, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hussey, Hutchins, Jacques, Jalbert, Ketover, Kil Kelly, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Macomber, Manning, Marsano, Marsh, Martin, H.; McCormick, McGowan, McPherson, Melendy, Merrill, Michaud, Mills, Mitchell, Murphy, Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, E.; Pendleton, Pines, Plourde, Pouliot, Reed, Richards, Rotondi, Ruhlin, Seavey, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tamaro, Telow, Townsend, Tracy, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Allen, Boutilier, Burke, Carroll, D.; Carter, Cashman, Cathcart, Clark, M.; Coles, Conley, Daggett, Dore, Erwin, P.; Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Holt, Joseph, Larrivee, Mahany, McHenry, McKeen, Nadeau, G. G.; O'Dea, Oliver, Paradis, P.; Paul, Pederson, Pineau, Priest, Rydell, Sheltra, Stevens, P.; The Speaker.

ABSENT - Constantine, Gould, R. A.; Jackson, LaPointe, Lawrence, Luther, Marston, McSweeney, Moholland, Paradis, J.; Parent, Rand, Richard, Ridley, Rolde, Tardy.

PAIRED - Chonko, Gurney, Høglund, Mayo.

Yes, 92; No, 38; Absent, 16; Vacant, 1; Paired, 4; Excused, 0.

92 having voted in the affirmative and 38 in the negative with 16 being absent, 4 paired and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

At this point, a quorum call was held.

The following item appearing on Supplement No. 19 was taken up out of order by unanimous consent:

**ORDERS**

On motion of Representative DORE of Auburn, the following Joint Resolution: (H.P. 1836) (Cosponsors: President PRAY of Penobscot, Representative GWADOSKY of Fairfield and Representative CARTER of Winslow)

**JOINT RESOLUTION CALLING UPON THE GOVERNOR OF MAINE TO CALL A SPECIAL SESSION OF THE LEGISLATURE AFTER JULY 1, 1990, IF STATE REVENUES FOR FISCAL YEAR 1990 ARE LESS THAN THE REVENUE PROJECTIONS FOR 1990.**

WE, the members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the Second Regular Session, respectfully present and petition the Governor of the State of Maine, as follows:

WHEREAS, the State of Maine is in the midst of the worst budget crisis in the history of the State; and

WHEREAS, for the first time in nearly two decades, current revenues are less than the revenues in the previous fiscal year; and

WHEREAS, the Governor has revised his revenue projections at least four times; and

WHEREAS, the Governor projects 6% growth in total General Fund revenues for fiscal year 1991, which is based on a significant improvement in the Maine economy that many economists do not accept; and

WHEREAS, the administration, to solve the current crisis, has used the \$163,000,000 carry forward from the previous biennium and has obligated between \$300,000,000 and \$400,000,000 for the next biennium by deferring substantial costs to the next biennium, and by using one-time revenue sources that will not be available in the future; and

WHEREAS, the Governor has proposed to increase state revenues by such revenue enhancers as Lotto\*America, increased federal funding and a tax amnesty program that are based on many questionable assumptions with respect to levels of income; and

WHEREAS, the executive branch possesses the sole authority to project revenues for State Government; and

WHEREAS, the failure of state revenues in 1990 to keep pace with the revenues of the previous fiscal year may indicate a very serious financial condition for the State that will need immediate attention; and

WHEREAS, the Governor possesses the authority to issue a fiscal order, making cuts across State Government without consultation with the Legislature; now, therefore, be it

RESOLVED: That We, the Members of the Senate and House of Representatives of the State of Maine, respectfully request the Governor to call a Special Session of the Legislature to be held no later than September 15, 1990, if state revenues for fiscal year 1990 fail to meet the Administration's latest revenue projections; and be it further

RESOLVED: That suitable copies of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted to the Governor of the State of Maine.

Was read.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: We had a rather dull year on Taxation this year, not much to take up or not much to consider. Some would say that is due to an election year, others would say that they were blindsided by the state of the economy and didn't have time to



respond. Whatever the reasons, I decided I would spend my time working on what was going on with revenues and watching the trend. As a result of a look at those revenue trends and I might add that one of my cosponsors, Representative Gwadosky, had been looking at the trend. I thought it prudent that we encourage the administration to call us back in. I am fearful if we come in in January and the current monthly revenue trends continue that we will have a major crisis to deal with. It would be a remake of fiscal 1991 in addition to having to deal with the '92-'93 biennium bills for those of us who are fortunate enough to be returned. I thought if we could set a date and say, look, at this point, we are done with fiscal 1990, things don't look too good (if they don't at that time and they currently do not look very favorable) and in spite of everyone's best efforts we aren't able to finish fiscal 1990 as we hope, I do credit a lot of people with real efforts to achieve that, and we take a look at the month of July in fiscal 1991 and the month of August in fiscal 1991, it might be prudent if mid-September the Governor calls us back in to deal with the crisis so 1991 can be dealt with a timely fashion. We would then have enough time to respond to it before we have the next legislature take a look at fiscal 1992-1993 biennium.

I am hoping that you will all find yourselves able to support this.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I have reason to argue that perhaps we ought to vote against this Resolution. Since monthly revenues are variable as we have seen, they can be above one month and they can be below the next month, to call a Special Session of the legislature, if we are \$50,000 below projections at the end of any month, it seems to be a waste of time.

The Governor has the tools at his disposal to adjust state spending if revenues fall slightly below projections. This is a management issue and will not result in a cash flow problem which could cripple state government operations. Our function is not to speculate on an unlikely future. If the need exists, a Special Session will be called. In the past three years, it has proven this, we had two in 1987, two in 1988 and one in 1989.

I would ask for a roll call, Mr. Speaker.

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

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

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I have a couple of questions in reference to this Resolution that I would like to address to the sponsor that presented it to us.

First, what would be the cost of bringing us back into session? I would like to know the ability of the legislature's budget to handle that?

I have some general questions about the paragraph that concerns the projections of a 6 percent growth (reading from the Resolution before us). The total General Fund revenues for the fiscal year 1991 and I am sort of curious as to how we will have a sense of where that is if we are called back before September

15, 1990. Perhaps the sponsor could respond to those two questions.

The SPEAKER: The Representative from Waldo, Representative Whitcomb, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to respond to those questions. I will do it very succinctly because the question is -- you are missing the point. If you think the concern is how much it is going to cost to bring the legislature in, \$30,000, \$40,000 or \$50,000 a day, whatever that happens to be, if you think the concern is the growth for next year, you are missing the point.

Let me take a moment to explain exactly what this is. I think we are all pleased where we have come with the budget this year. We were faced with a situation where we had a \$210 million shortfall, the Governor set forth a budget that required a \$146 million worth of cuts, \$67 million worth of magical, new mystery money and we are in a position where we had to do the responsible thing. We put together a budget and it is balanced for the time being. The concern is, what happens if it doesn't remain in balance? The reason for this Resolution is that, in fact we find the available revenues don't hold up and the Governor of this state chooses to issue a fiscal order making cuts in personnel and/or programs, that as a legislature, a co-equal branch of government, we have the responsibility to be involved in that discussion. We would expect to be called back in.

Where have we come? Just take a moment to look at history during the last year. March, 1989 -- the Governor of this state proposes his biennial budget, it represents a \$500 million increase from the previous fiscal budget. March 30th, the legislature contracts with Peat, Marwick Main & Co. to assist in creating revenue projections in accounting tax rates. June, 1989, the Governor notifies the Appropriations Committee that the revenues don't look like they are coming in quite the way they were, downward estimates were some \$60 million. The Appropriations Committee goes to work cutting \$60 million out of the budget. The Appropriations Committee cut \$60 million out of the budget, leaves certified to the budget's balance. December 7, 1989, the Governor releases findings of the Peat, Marwick firm and announces that added budget cuts of \$67 million are going to be needed over the rest of the biennium. January 4, 1990, the Governor signs a financial order mandating \$67 million of budget cuts over the first six months of 1990. January 12, 1990, the Commissioner of Finance informs the Appropriations Committee that the budget shortfall will be roughly \$100 million. January 19, 1990, the Attorney General declares that the financial order may in fact be illegal. January 31, 1990, the Governor announces a budget shortfall of \$210 million. That means that when he originally produced his budget, his projections are now off by \$270 million. On February 5, 1990, the Governor releases his proposed budget. February 21, 1990, the Governor presents his first set of revisions to the budget. March 15, 1990, the Governor presents a second set of revisions to his budget, budget revisions consisting of 73 pages of changes with major deficits in AFDC amounting to \$700,000 and General Assistance amounting to \$3.8 million as reported to the committee. March 21, 1990, a deficit of \$2.6 million

in the Intermediate Care Facilities Account is reported to the Appropriations Committee.

Now that is the past, that gives you a track record of the administration for projecting revenues just in the past year. What have we front-loaded for the next fiscal year? You have already heard Speaker Martin and others refer to that. How much money have we front-loaded? To begin with in this fiscal year, in this biennium, we carried forth \$163 million worth of surplus, we no longer have that for fiscal year 1991. We are counting on \$15 million in tax amnesty this year. We no longer have that in 1991. We won't have the revenue that we are gaining from delaying the insurance tax, the industrial or electricity tax or the railroad tax or low-income student adjustment, \$10 million in homestead relief, \$14 million in circuit breaker, \$5 million in investment tax credit -- this money will no longer be available in 1991.

We had a one-time transfer this year from Inland Fisheries and Wildlife of \$2.2 million but that won't be around next year. General Purpose Aid to Education, \$32 million, but that won't be available next year. Additional health costs for health care costs \$57 million but it won't be available next year. Funds from the Rainy Day Fund of \$6.4 million won't be available next year. The deferral of BPI projects of \$2 million will not be available next year.

When we began the 1991 budget -- the next Governor of this state who takes charge is going to be \$374 million in the hole and it is going to be beyond that.

When the Governor released his budget, he said that he was going to make \$146 million worth of cuts and \$67 million worth of new revenues. We have discussed those at length. Lotto\*America is going to bring in \$7 million. I don't think there is a person in this room who thinks that is going to bring in \$7 million. Tax amnesty is going to bring in \$26 million. I don't think there is a person in this room who thinks that is going to bring in \$26 million. Personnel initiatives, the administration projects that they are going to save \$15 million in new revenues this year by making a variety of offers to state employees. They said that 53 people would lose their jobs; however, they would offer early retirements, sabbaticals and if enough people took advantage of that, we would make \$15 million. Federal funds -- two months ago, our office released a report saying that the state was not doing what they could do to maximize their ability to draw down federal funds but DHS said, we are doing everything that is humanly possible. They released their budget and suddenly they decided that they could drive down another \$10 million in federal funds. Unfortunately, they still haven't gone through the necessary application process in Washington, D.C. to draw down those necessary funds.

As Representative Carter has pointed out so eloquently when he talked about the issue of oversight, the legislature doesn't have the luxury, we don't have technical capacity to project revenues. We can say we don't feel comfortable with them, we can call the administration on them and say that we don't think it is going to happen and in fact that is what we are doing with this Resolution. We are saying that we are accepting these new revenue sources as given but if in fact they don't hold up, we expect to be called back into session before a financial order is issued cutting people and programs across state government. It doesn't end there. For this budget to be balanced, the administration is projecting a 6 percent growth in total revenues for 1991. Ladies and gentlemen of the House, we are

(right now) taking in less money, big-time, than we took in last fiscal year. I am not talking about a decrease in the increase. The State of Maine, in total revenues, is taking in less money this year than we did last year. For this budget to be balanced, the administration is predicting a 6 percent growth. They are projecting that we are going to be taking in \$85 million more next year than we took in this year. I don't know anyone in this building who thinks we are going to take in \$85 million more next year than we took in this year. We are going to have to have some tremendous turn around in the economy. It hasn't happened yet and we are running out of months.

We can feel good about the budget we passed. We took care of a lot of things that needed to be taken care of but it is important not to sugarcoat the news back home because there are some big bills that are going to have to be paid in 1991. All this Resolution is saying is that, if the revenues don't hold up, if the projections don't hold up and we will monitor them every single month, then we, the legislature, expect as a co-equal branch of government, to be called back into session to work with the administration, to work cooperatively with the administration, to have a say in where those cuts are going to take place and what programs are going to be in effect. That is all this does, nothing more, nothing less.

I would urge your support.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: The good Representative from Fairfield suggested at the onset of his recent discussion that I missed the point in my question. I would just like to suggest to the members of this body that I think I understand full--well the point of this whole discussion. Nowhere in his recent presentation did he answer my question but instead chose to use the occasion, which is very proper, to discuss (as we have heard several times tonight) a little bit of history of the current economic status of Maine. That is all well and good, I think given the hour of the day and the fact that just about every one of us have heard this several times before, it may not be taking us very far.

I would suggest that the good floor leader is as he is challenging the Administration is also questioning the integrity of several very important committees, one of which I serve on and that is Taxation. We worked hard on some of these resolutions and some of these proposals from the Administration that looks at the budget and ways of changing and improving revenue. He is suggesting that none of these make any sense or at least several of them make very little sense, that we can't possibly meet the projections and all is gloom and doom. I certainly hope he isn't right and I think he hopes he isn't right. However, I would suggest that this, we all hope, is the last night of the legislative session and we could all expect a chance to get in (shall we say) some final licks on what has not been a very good year in the economic situation of the State of Maine. In fact, it is the first time in many, many years that revenues have not met projections, the revenues have not grown. The revenues defied even the experts that the other party suggested that we bring in to look at ways of projecting and, frankly, everyone in both parties, I believe, has made their best efforts to produce a balanced budget, to produce a method of raising revenues that does not represent a significant tax increase.

I noticed in all the criticism that we have had this evening, we have heard no better solutions. I understand that that is certainly the prerogative of those who are in a position to criticize. Be that as it may, we have a budget that I am personally proud of. It has got some things in there that I don't like, some things in there that could be called pork barrel, not probably as bad as usual, but there are some things in there that are there, we all sort of gritted our teeth and accepted it.

Now it is time to go home and frankly whether this resolution passes or not is probably of little matter. I would suggest to the good floor leader that we have now had the opportunity to (several times) point out what has been a very difficult year for learning about the Maine economy as it has changed from any historical perspective in any administration and I am frankly rather proud of the way the State of Maine has handled the situation and I am rather proud of the fact that we have people in this administration that will make decisions that are proper for the State of Maine.

I still haven't heard an answer to my question as to whether the legislative budget can afford to be called back for another day?

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: In answer to the question as to whether we can afford to be called back in or not, this budget has been put together with a lot of effort. There are items in it that people on either side of the aisle would take issue with in terms of their credibility. However, it is the best intention of everyone working here -- and if this works, we are all going to take credit for this. If this fails, we shouldn't leave it up to the next legislature to take responsibility for the rest of fiscal year '91. If we are going to take the credit, we ought to take the responsibility. If we have a crisis on our hands of the proportion that some of us feel that we might have, I think the next legislature's job is to deal with the '92-93 biennium and we shouldn't load on to them any more of our job than we have to.

I know that we voted the tax amnesty proposal out of Taxation, Representative Whitcomb, all but unanimously, but we voted it out with a lot of doubt and you well remember those work sessions as do I.

I think we will have a good look at what '90 has done and by September 15th, we will have two months of '91 and a pretty darn good idea of where we stand.

Currently, we stand around \$50 million behind revenues in 1989 and that is where we stand today.

The Governor suggested we finish this after the Appropriations Committee made adjustments to some tax revenue dates. The Governor's original suggestion was that we were going to finish this year \$18 million behind fiscal '89. I think after their adjustments it was around \$8 million to \$10 million behind fiscal '89. We now stand at \$50 million behind 1989 and we have only got three months to make it up folks. I think it is reasonable and prudent that we take responsibility for what happens from here on out. All this Order is doing is recommending that the Governor allow this branch of government, which has very creatively dealt with the problems so far, to have a turn if the problem continues. I think that is a respectful request to make of the Governor.

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

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

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: I won't use up much of your time, I just would like to point out a case of selective amnesia on the part of one of the previous speakers when they said that the majority party has made no proposals of their own. Being on the Economic Development Committee, we had over \$4 million worth of savings in DECD that we proposed. Almost all of it was put back in, including job opportunity zones, which I took the opportunity to vote against earlier. One of my pet projects is to kill that some day if I ever can. We can save \$300,000 right there so the proposals were there.

I really hope that this proposal dies because when everything starts falling apart come Fall, we are going to be blameless, we are not going to be here to share in dealing with the problems.

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

Representative STROUT: Mr. Speaker, I would like to pose a question to the sponsor of this Resolution if I may.

The way I read this, it says, "call a special session after July 1st, 1990 if state revenues for fiscal year 1990 are less than the revenue projections for 1990, my question is, if projections are on-line through June 30th and July falters, what do you do in that case?"

The SPEAKER: Representative Strout of Corinth has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: If state revenues for fiscal year 1990 fails to meet the Administration's latest revenue projections, that is all it says. If a significant problem doesn't arise after fiscal 1990, I think we will have just gotten a miracle and we can all just be grateful.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of the Resolution. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 258

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hickey, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Larrivee, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McKeen, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Swazey, Tammaro, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Pendleton, Pines, Reed, Richards, Seavey, Small, Stevens, A.; Stevenson,

Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Chonko, Conley, Constantine, Gould, R. A.; Hoglund, Jackson, LaPointe, Lawrence, Luther, Marston, McSweeney, Moholland, Paradis, J.; Parent, Richard, Ridley, Rolde, Tardy.

Yes, 82; No, 50; Absent, 18; Vacant, 1; Paired, 0; Excused, 0.

82 having voted in the affirmative, 50 in the negative, with 18 being absent and 1 vacant, the Resolution was adopted. Sent up for concurrence.

The following item appearing on Supplement No. 62 was taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Amend and Improve the Education Laws of Maine (S.P. 830) (L.D. 2138) (H. "A" H-1134 to C. "A" S-534)

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

The following item appearing on Supplement No. 67 was taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Establish Designated Positions Within the Department of Mental Health and Mental Retardation as Unclassified State Positions Subject to the State Employees Relations Act (H.P. 1841) (L.D. 2512)

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

The following item appearing on Supplement No. 68 was taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Reduce Costs to County and Municipal Government by Delaying the Implementation Dates of Certain State Mandates (S.P. 1004) (L.D. 2492)

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

The following item appearing on Supplement No. 71 was taken up out of order by unanimous consent:

**PAPER FROM THE SENATE**

The following Joint Order: (S.P. 1013)

Ordered, the House concurring, that Bill, "An Act to Implement the Recommendations of the Court Jurisdiction Study." H.P. 1682, L.D. 2328, and all its accompanying papers, be recalled from the legislative files to the Senate.

Came from the Senate, read and passed.

Was read.

Pursuant to the Constitution, a two-thirds vote of the members elected being necessary, a total was taken. 104 having voted in the affirmative and none in the negative, the Joint Order was passed in concurrence.

The following items appearing on Supplement No. 66 were taken up out of order by unanimous consent:

**PAPER FROM THE SENATE**

The following Joint Order: (S.P. 1012)

Ordered, the House concurring, that Bill, "An Act to Return Certain Positions within the Department of Mental Health and Mental Retardation to Classified Service under the Civil Service Law and to Establish

Uniform Pay Schedules," H.P. 1380, L.D. 1911, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

**Ought to Pass as Amended**

Report of the Committee on Education reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-614) on Bill "An Act Relating to Restructuring Maine Public Schools" (S.P. 930) (L.D. 2359)

Came from the Senate, with the Bill and accompanying papers indefinitely postponed.

Report was read.

Representative Small of Bath moved that the House accept the Committee Report.

Representative Crowley of Stockton Springs moved the House indefinitely postpone the Bill and all accompanying papers.

Representative Ault of Wayne requested a roll call vote on the motion to indefinitely postpone.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Crowley of Stockton Springs that L.D. 2359 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 259**

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Larrivee, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McKeen, Melendy, Michaud, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Stevens, P.; Stevenson, Swazey, Tamarro, Townsend, Tracy, Walker, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Mills, Murphy, Norton, Paradis, E.; Pendleton, Pines, Reed, Richards, Seavey, Small, Stevens, A.; Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Whitcomb.

ABSENT - Chonko, Constantine, Gould, R. A.; Hoglund, Jackson, LaPointe, Lawrence, Luther, Marston, McSweeney, Moholland, Paradis, J.; Parent, Richard, Ridley, Rolde, Skoglund, Tardy.

Yes, 83; No, 49; Absent, 18; Vacant, 1; Paired, 0; Excused, 0.

83 having voted in the affirmative, 49 in the negative, with 18 being absent and 1 vacant, the bill was indefinitely postponed in concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Resolve, Authorizing the Conveyance of Certain Public Lands and the Settlement of a Boundary Line Dispute Involving Public Lands (H.P. 1779) (L.D. 2446) (C. "A" H-1062) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative McGowan of Canaan, under suspension of the rules, the House reconsidered its action whereby L.D. 2446 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1062) was adopted.

On motion of the same Representative, Committee Amendment "A" (H-1062) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-1135) and moved its adoption.

House Amendment "B" (H-1135) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" (H-1135) in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

The following item appearing on Supplement No. 66 was taken up out of order by unanimous consent:

**PASSED TO BE ENGROSSED  
WITHOUT REFERENCE TO COMMITTEE**

Bill "An Act to Establish the Rural Medical Access Program and the 5-year Medical Liability Demonstration Project and to Revise the Rules Regarding Collateral Sources and the Discovery Rule in Medical Liability Cases without Imposing Caps on Damages" (H.P. 1842) (L.D. 2513) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative MacBRIDE of Presque Isle, Senator HOLLOWAY of Lincoln and Senator GAUVREAU of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(Committee on Judiciary had been suggested)

Under suspension of the rules, without reference to any committee, the Bill was read twice.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and women of the House: I think before we begin any further discussion of this bill it is important that we all understand what this bill does. Over the last two years of this legislature, there have been a number of bills dealing with medical malpractice that have been before the Judiciary Committee and before the Banking and Insurance Committee. We are now down to the very last moments of our session and

we have this bill before us. It does a number of very important things for our medical community and for our citizens of this state.

I would like to very briefly describe to you the components of the bill. First of all, there is a medical liability demonstration project. The bill would establish this liability demonstration project for three medical specialties, anesthesiology, obstetrics and emergency medicine. In each of these specialties, there would be separate committees formed comprised of physicians and public members who would develop practice parameters and risk management protocols in that particular medical specialty area.

These parameters and protocols, which must be consistent with the appropriate standards of care, would be designed to help avoid future malpractice claims and to decrease the cost of defensive medicine.

We also hope that the establishment of these protocols would help to reduce the costly battle with experts that often occurs in malpractice cases. A physician, who elected to participate in the project and participation is voluntary by physicians but physicians who elect to participate, could introduce as an affirmative defense evidence of compliance with the protocols in the event that that physician should be sued in the future.

As I said, participation is voluntary and, in any one of the three specialties, the demonstration project would not begin unless at least half of the physicians who are licensed in the state and who are practicing in that specialty area elect to participate.

Secondly, the Bill reforms the collateral source rule in order to prevent double recovery by plaintiffs. This legislation requires the judge to decrease the verdict by the amount of any collateral source payment. It only pertains to those cases that go to judgment and it is the judge that makes the determination that damages would be reduced when those damages have already been paid or are payable by a third party and when that third party is not seeking to recover what was paid. Evidence of the collateral source payment is not admissible at trial.

The Bill requires, again, that the judge at the verdict would decrease the verdict by the amount of that collateral source payment.

Thirdly, the Bill establishes a program that will help to provide some insurance subsidies from malpractice premium subsidies to physicians who provide prenatal and obstetrical care in underserved areas of our state.

The Bill proposes to fund that program using part of the projected savings attributable to the reforms of both the collateral source rule and the medical liability demonstration project.

The superintendent of insurance would determine the amount of savings as part of his annual review of malpractice insurance rates.

The legislation also revises the use of discovery in medical malpractice prelitigation screening panel proceedings and subsequent court actions. We hope that the results of these changes would be to eliminate costly duplication of discovery.

Finally, because this is an innovative approach, because this is new and because we need to closely monitor it, the Bill establishes a medical demonstration project advisory committee to review the demonstration project and report its findings and to make any recommendations to both the Governor and the legislature throughout the five-year pilot project.

This particular bill is before you as a result of the work of a group of people over the last several days, but it is based on the discussions that have been held in this legislature in the Judiciary Committee and in the Banking and Insurance Committee over the last two years and also on discussions that have been held in previous legislatures. We feel it is a modest proposal, it is a beginning to address a problem that we have to acknowledge exists, that we have physicians who are terminating their practice of obstetrics because of malpractice premiums, that we have physicians who are unable to continue to practice in medically underserved areas that it is difficult to recruit physicians in these areas and we would hope that this proposal can be a modest beginning to turning the tide so that we can offer access to health care in particular to prenatal care and delivery services to all the women of Maine within a very reasonable distance of their homes.

I would hope that you would be able to support the bill.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Nothing really gives me more pleasure than to be able to stand early this morning in front of all of you and urge you to adopt this legislation.

It has been the process of working together over the last several days, around the clock practically, to try to resolve our differences. It has taken many, many hours, but more importantly, the process has gone on for many, many months when we consider these bills have been before us since January of last year.

The debate has been one continuous debate in the Judiciary Committee because most of these ideas, save for the portion that is the medical liability demonstration project, are not new. Most of these ideas have been before us in 1986, 1988 and again in 1990. The same rhetoric that you will hear from both sides, mine and theirs, will be around this hallowed chamber tonight, I dare say. I can also predict that none of that will give you tort reform, not mine, not yours, only this bill will give you tort reform, in the 114th Legislature, Second Regular Session in the final closing hours. That is the reality that Representative Rydell and I wish to impart on you good people tonight as we get our final act together here to finally adjourn as we get our emotions together.

This bill does not please the doctors, it certainly doesn't please my friends who are attorneys and practice law. As the good Representative from Waterville would probably say, if you can get both sides against you, you must have something going for you. It does seek to address the problem of liability and when people feel they have been maligned and they go to court to seek an avenue to address a grievance.

Senator Gauvreau's medical liability demonstration project will be a real bonanza for cutting down the number of claims and lawsuits that are lurking out there, that have the potential for keeping the system tense.

The other project has the potential, the rural health care project, for alleviating some of the shortages that exist right now in the rural areas of the state. No one denies that. What we don't want to agree to is the funding mechanism and, if the Judiciary Committee had its way, we would take General Fund money to provide funding for rural health care, that is the way to do it. Don't rob

Peter to pay Paul. People have been hurt more than they already have been hurt in order to help people who might get hurt later on. There is sort of a continuum here that just gets worse year after year, but those General Fund monies aren't available. You know it and I know it. This bill is available so, without prolonging the process, in all of the other potential amendments that are before us, let me say that with malice toward none and with charity for all, I urge you to adopt this bill tonight.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Rand.

Representative RAND: Mr. Speaker, Men and Women of the House: I move we indefinitely postpone L.D. 2513 and all its accompanying papers. I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that you heard me debate extensively the other night and you all know that we have been talking about access to medical care for a long time in this body, since 1985 I believe.

The Judiciary Committee, as you all know, just could not come to an agreement on the various aspects of this bill. Our philosophies were just different. Finally, this group that was selected to work together finally did come to a compromise and they had a good deal of trouble too. They had the same problems with the same issues that we in the Judiciary Committee had.

When they presented the compromise to me, it was really difficult for me to know exactly what to do. The compromise had four of the five issues that I was advocating. However, I did strongly believe that \$250,000 non-economic cap would add a good deal of strength to that bill. The cap was not included in this compromise version, only the demonstration project, the rural access to health care, the discovery rule, and a change in the collateral source rule. So, there were those four items but there was not a cap. I was really at a loss to know exactly what to do having urged you people so strongly on the floor just a short time ago.

After giving it a good deal of thought, I finally decided that four out of the five items were going to be part of the compromise and I believed so strongly in trying to get health care for people of the State of Maine, particularly into our underserved areas and to look after our people to assure they are going to have medical care that I finally decided that I would accept the compromise package.

As I said, it was difficult because it meant there were a good many people in this body who are supportive of this cap and now I was accepting a compromise that they would not be supportive of. However, I did agree to that, I signed the bill. After that was done, Representative Paradis and I got together and we decided on the procedure that we were going to follow tonight to present this to you people. Representative Paradis knew that he had members or a member from his party who would be offering an amendment and I knew that I had members of my party who were going to be offering an amendment. Representative Paradis said, "You know, if we are going to keep the compromise, we need to keep it all the way through. I can't really urge people not to accept an amendment from someone in my party if you are going to accept an amendment from someone in your party." Representative Paradis was correct, that is true, a compromise is a

compromise. The only thing is that the amendment that was going to be offered by someone in my party was an amendment on caps and so there I was, just exactly what to do about the process....

The SPEAKER: The Chair hates to interrupt the Representative but the motion has now been changed to indefinite postponement.

Representative MACBRIDE: I know that and I am coming to that Mr. Speaker, it may take me a little while to get there. I am sorry.

I do want you to understand that I did not want to let down anyone in my party and didn't know exactly what to do. However, I finally agreed that I would vote against an amendment that was offered for the cap. I would vote against all amendments because I felt that this bill was important enough to pass. However, I did feel that everyone should have an opportunity to present an amendment, regardless of what they might be.

When the bill was finally printed, I was concerned about the title, but I do think that the bill as a package is a good bill. Individual pieces, no, but as a package, it is a good bill. I would hope that the title will not stand in the way of trying to pass this bill.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Rand.

Representative RAND: Mr. Speaker, Men and Women of the House: My feelings for this bill have not changed at all. I think it is a bad bill. It gives credence to the legitimacy of tort reform, which is the greatest misnomer I can think of. At this time because I want the process to continue a little bit longer. I would like to withdraw my motion.

The SPEAKER: Representative Rand of Portland withdraws her motion to indefinitely postpone the Bill.

The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: As Representative Paradis, the Chairman of Judiciary had indicated, this has been a long process, a year and a half of listening to this bill, listening to lobbyists from both sides of what Judiciary should do. Perhaps we on Judiciary should have had a bill that came out a Divided Report early on with minority and majority reports and this would have been in a different posture. However, it is not.

In thinking about everything that happened to this bill, it reminds me of when I was nine years old and I was in Baton Rouge, Louisiana, that was in 1959, and I remember going to the grocery store with my mother and I can remember walking past the vegetables and there were two fountains, a fountain for blacks and a fountain for whites. I don't know why I walked over to the black fountain but I did. I don't know whether it was because I wanted to find out whether the water tasted different or what, but I did walk over there and started drinking the water. A lady immediately came over and grabbed my mother to bring her over to indicate why I couldn't drink out of that fountain. The fact of it is, my mother was shunned by the people around there for me going over to that fountain. The end of the story is, we left the store and I tasted the water. It didn't taste any different.

That is much the same approach we had in dealing with this bill in Judiciary listening to the lobbyists. All you heard from the trial lawyers is that you can't do it, you can't touch it, you can't do it, absolutely can't do it. The other side saying, you have to do this, you have to go the full length of doing everything. Both, in my mind, were

unreasonable. Throughout the whole process of actually having three hearings on this bill hearing, over and over again, nobody, nobody came forward with any kind of constructive suggestions as to what we can do to provide health care costs, reduce health care costs, provide access for the rural areas that are losing their obstetricians. Nobody came forward to provide some kind of consensus to work together. So, that was left to the Judiciary in a posture of, I guess, delaying the bill over and over again until it got to the point where the other night, the members that worked on the compromise, put long hours in, came up with a compromise. However, the problem that I have with the compromise -- and I will be voting against the compromise -- is that one thing I did learn in going through the process for the year and a half is that, in reading studies from Minnesota that had tort reform, reading studies from California that had tort reform, and I guess they are both extremes. Minnesota adopted tort reform but it was a weak tort reform. Their conclusion that the trial lawyers used is that you can't do tort reform, it doesn't work. It doesn't show any measurable differences, does not show any savings, premiums kept going up, had no affect on the severity of the claims or the incidents of claims, so you can't do it.

The other side came in, the doctors, the representatives from the hospitals, the representatives from Maine Medical Mutual. St. Paul wasn't there, by the way.

They presented a bill in California in 1975 that took an aggressive stance on tort reform. They had things such as caps, they had things such as collateral source. By the way, this is a strong collateral source bill, probably stronger than the one in California, but caps were an essential part of that bill and they put on a \$250,000 cap back then. The results of that bill, it was argued, and not crystal clear, that there was a measurable impact on reducing rates over a period of time. It does take time, it doesn't happen next year, it takes five years for your actuary model has to be established because you have actually three different models. You have a model that the profit corporations would present, a model that your non-profit corporations would present and a model that the state would present and they would come up with some kind consensus to find out what relation you are going to show with tort reform and savings. The fact of it is California did have savings and that was the nature of their aggressive package for tort reform.

We can pass out this bill and (I guess) say that we have done something. It is my opinion in looking at this weak bill that there is not going to be any savings. So what we have is a bill that is really perhaps going to give us some savings but it is a long shot. If it doesn't have any savings in a year or two years or three years from now, then people are going to say tort reform doesn't work. So like in Minnesota, we will join the lobby to say, let's kill all tort reform and go back the other way.

In this state already, we have made policy decisions on tort reform. We have made those decisions in dram shops where we have had caps of \$250,000 and what that does is say, if you have a bartender and he sees somebody slobbering over himself over the 14th drink and he gives him the 16th drink and that person then drives home and seriously injures somebody else and the owner of that establishment becomes liable -- the most that person can be compensated -- by the way, that driver has no insurance, let's assume that for a minute which happens often, the owner of that establishment is only going to pay \$250,000, that is for economic and

non-economic, \$250,000 flat. So, we have done that in this state.

Also in this state, we have the Maine State Tort Claims Act where we provided a \$300,000 for government municipalities. You might say tort reform has increased the amount of damages that you can have for wrongful death from \$50,000 to \$75,000. That was done last session.

We have also made a policy decision to say that, if you have one doctor that goes out and gets \$50,000 worth of insurance and you have another doctor that goes out and gets \$200,000 worth of insurance, if the doctor that has \$50,000 worth of insurance commits a negligent act and is found to be 99 percent liable and you have that other doctor that has \$200,000 of insurance and is found to be 1 percent liable, who would profit? That is a policy decision we made and a lot of states made because we wanted to see the individual compensated. Who is the victim there? You have got a victim, the one that had the malpractice, you also have in a sense the person who has 1 percent that is liable that is going to pay most of the damages. We have accepted that because we have made a policy in this state. Perhaps that does contribute to some of the high costs of our insurance and access to health care in our rural areas.

In other states -- I know the argument will be raised about caps and them not being constitutional. We have all had this and I don't know whether it has been in the can because it has been on the table for a while. This was distributed by Representative Pines and it is a guest column printed in the Lewiston Sun Journal on March 21, 1990 by Ben Lounsbury, an M.D. Let me just read a brief section of this. The cap laws of California and Indiana have been upheld all the way to the U.S. Supreme Court. In each instance, the court ruled the legislatures have the right to decide which was more important, the availability of medical care or the ability of the plaintiff to sue for unlimited amounts.

So, we do have the right in this state to set a policy to say that if we wanted to adopt a strong package we could include caps and that would be doing the right thing, setting it for \$250,000 and adjusting it every year by the consumer price index to keep in step with inflation. We could do that or we could adopt a bill that is weak and debate it later on as to whether tort reform works or not.

Subsequently, Representative Richards of Hampden offered House Amendment "D" (H-1139) and moved its adoption.

House Amendment "D" (H-1139) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: The amendment I have just offered makes a few changes, obviously. It adds the limits on non-economic damages. What it does, as in the original bill, it changes the floor. The floor currently for the rural access is \$250,000 and I think the max on that would be \$500,000. With caps in there, it has been said by the actuary's, it has been said by Commissioner Edwards that you could probably see an impact with caps. The caps doesn't just affect those people that you are putting a cap on. Caps infiltrate throughout the whole system. It dictates how lawyers will act with each other in dealing with cases. It dictates how the process will deal with either settling cases, bringing cases to trial sooner, quicker trials, not waiting two or three years, but mostly it is going to impact on how lawyers treat these claims.

I know the distaste for caps that deal with the fact that we are taking money away from people. We are, but again, we are making a policy decision. I have got to be very honest and fair about that. We are making a policy decision.

The limit on non-economic damages, if I could just briefly read the definition of that, so we have no misconception as to what that actually is -- non-economic damage is something that sometimes as a lawyer you hear them say, you have got to pull out of the air. It is something that deals with pain and suffering, it is subjective, non-pecuniary damages arising from pain and suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, other non-pecuniary damages and any other theory of damages such as fear of loss, illness, or injury. We still have economic damages so the individual could be compensated for future lost wages, medical expenses, any out-of-the-pocket expenses whether that is a million dollars or whether it is two million dollars or whether it is three million dollars depending on the age of the individual, the job, a lot of circumstances. Those things are still there.

In closing, I would like to say that if you want to adopt a strong tort reform package, perhaps this is the year to do it and perhaps it is not. If we want to adopt a strong package and have the courage to make strong policy decisions as a trade-off, that we are impacting rates for doctors on their premiums or allowing a bigger pot of money to go into the rural access fund to go out to rural areas throughout the state, to be able to come back here in a period from two to five years and show that there is an actual savings and say that tort reform works, then adopt this amendment and the original bill and we can say that we really have done something.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, may I state a parliamentary inquiry?

Is House Amendment "D" germane to the bill?

The SPEAKER: In reference to the question posed by Representative Mayo of Thomaston, the Chair would like to make note of the fact of the title of the bill, and I read, "An Act to Establish a Rural Medical Access Program with a Five-year Medical Liability Demonstration Project, to Revise the Rules Regarding Collateral Sources and the Discovery Rule and Medical Liability Cases without Imposing Caps on Damages." In consultation with the sponsor, the amendment deals with limits on non-economic damages and excludes economic punitive damages. The Chair, since the title of the bill specifically deals with preventing caps on all damages, the Chair would rule that House Amendment "D" is not germane.

On motion of Representative Mayo of Thomaston, tabled pending passage to be engrossed and later today assigned.

The Chair laid before the House the following matter: Bill "An Act to Establish the Rural Medical Access Program and the 5-year Medical Liability Demonstration Project and to Revise the Discovery Rule without Imposing Caps on Damages and the Rules Regarding Collateral Sources" (H.P. 1842) (L.D. 2513) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Richards of Hampden moved that L.D. 2513 be indefinitely postponed.



The SPEAKER: The Chair recognizes the Representative from Lewiston Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: First, I would ask when the vote is taken, it be taken by the yeas and nays.

Second, I would urge all members to vote against the pending motion. I am happy that the working group came up with a compromise. I don't think it goes as far as I would like it to go but I do think it takes a step in the right direction and I am especially looking forward to the work that the 5-year demonstration will do and whether that will be effective. If it can be effective, then possibly extending it beyond the five years.

I think the funding issue will become a problem. I don't think the collateral source will raise enough money to fund it. I agree with Representative Paradis, it might take General Fund money and if the project is effective, I think that is what we should do. I think we should fund it outright from the General Fund. I am not willing to vote to indefinitely postpone this bill because of the absence of caps in this bill. I do think that it will have a positive effect even if that effect is minor and I would urge members to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I rise tonight after having worked three days on this bill, plus perhaps the better part of 40 hours during work sessions and hearings held by the Judiciary Committee. It is with great reluctance that I rise tonight because I thought we were going to have fair debate on all of the issues before this body, which included caps. I did not join as a sponsor to this bill although a party to the committee that made it up because particularly the question of caps was not accepted by this committee and I told them I would not write on to it.

I would ask you to read tonight what is on the bill that is on your table. It doesn't read as was read to us by the Clerk. It reads differently, it reads, "An Act to Establish the Rural Medical Access Program and the 5-year Medical Liability Demonstration Project and to Revise the Discovery Rule without Imposing Caps on Damages and the Rules Regarding Collateral Sources" -- that is not what we heard read to us.

Those who felt strongly that this bill, I would say, is going out to the populous underfunded. They are cheated of the chance to vote on the very issue that could have funded this program. This is without caps and yet, if you look at the amendment on your desk for offering in the Senate and offered previously and ruled not germane, you will note that there is a guaranteed floor in the first year of one half million dollars for funding this fund, one half million dollars and a maximum of one million dollars.

If you read this bill, 2513, you will see there is no guaranteed funding of this bill, that is the portion dealing with the rural medical access. This bill was initially crafted as a trade-off to put doctors in a position that they had to put their doctors where they were yelling about, that if indeed there were savings from the tort reform known as limits on non-economic gain and the collateral source rule, if those indeed resulted in savings by a reduction of premiums, then those savings shall not all go to the doctors by reduction in premiums, but rather one-half of it would go out into the hinterland to those underserved areas of the state that I spoke about the other night. That is where

half of that money was to go, one half of that savings but at least \$500,000 was to go out and guarantee premiums to reductions to keep those doctors out in those underserved areas delivering babies and handling medicaid patients. We don't have enough of them in this state. As best we can find out, there is between 50 and 75 of them in this state. Not very many. Figure it out, \$500,000 for 50 to 75 doctors. Your arithmetic is as good as mine. \$10,000, if there is only 50 of them, that is how much their medical malpractice would go down.

Here is the difference folks, right now, the only thing that would be paid is the differential between their premium if they were not having obstetrical privileges versus those with obstetrical privileges. Let me tell you what they are, a family practitioner who serves out in the hinterland, if he doesn't deliver babies, his premium is \$5,400. If he delivers one baby or does prenatal care, it is \$14,400. \$9,000 more. That would have had real impact to those doctors. I told you about the Lincoln County obstetrician who came and plead to us, she has already left the field in less than 30 days.

Tonight the playing field is not even, we don't have the opportunity to fund this program with caps, non-economic gain, an assured half million dollars, which the Doc's were willing to guarantee, absolute. Tonight, no collateral source may, and I choose the word carefully, may result in some savings. That saving has first earned up to \$250,000 and will go towards funding the Rural Medical Access Program. The next \$250,000 goes to the Docs to reduce premiums and above that, it is split equally up to a maximum of \$500,000, formulas too tiring to figure out in your mind at 2:00 a.m. on April 14th.

We don't have a level playing field tonight folks, we have been denied it by some very, very clever parliamentary maneuvering. However, I will tell you that tonight you should support this bill. It is a step, as I indicated the other night, of moving the ship a little bit in the right direction. It is going towards shore folks as surely as we stand here tonight and we have to begin to move it. This does begin to move it.

The demonstration project is a good program, it will give us good data. The Rural Medical Access is a good program, it tries to keep Doc's out there until we can get a handle on medical care and the cost of medical care. Collateral source is a means to get there, it is a fair means to get there. Lawyers don't like this bill, insurance companies don't like it, the Doc's are half behind it. Probably a good bill, one would say.

One thing that I can tell you tonight, while I urge you to vote for it, I think it will not be funded. I do believe and I do want you to know that, should I be reelected, I shall bring you and you shall have the opportunity to vote yes or no on non-economic limitations and that is not too many months away. It shall happen. It will be a nice yes or no answer. I will bring it only if I am proven right in establishing that this does not fund itself by the program that we instilled because I know that the other method, as had been proposed, would have funded the Rural Medical Access Program.

Folks, I am disappointed tonight but I want you to try and consider again what we, representing the people of Maine, find in the best interests of the common good. This bill, though its maneuvering paints the process in my mind, still does that, it does serve the common good and I urge your support and against the motion pending.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: It is too late to extend any lengthy debate so I will be very brief.

There are good compromises and bad compromises and this is a bad compromise and I support indefinite postponement.

Most of you know that I am a lawyer but what you may not know is that I do family law. I do nothing in the area of medical malpractice nor does anybody in my firm. When I approached this topic this year, I was as green to this topic as most of you were. It is comparable to saying that a potato farmer from Aroostook has some expertise in the area of dairy farming -- I just don't have the expertise in this area but I have learned because I have had to. I was on the Judiciary Committee and we struggled with this and what I learned, from my point of view, is that we do indeed have a problem in the area of medical malpractice rates. They are very high. The reason that they are high is because it costs so much to handle each one of these cases. Over 50 percent go to lawyers and to experts and to the people that take the depositions that go in these things, court reporters and the rest of it. It is the transaction costs, it is all the costs that go to get the case ready for settlement or trial. This bill does not attack that problem, it dances around the edge of it, ever so slightly. It will reduce to some degree some awards and who will pay for those reductions? Victims, the victims who are in fact those that have been the victims of malpractice -- why do I say that? Because of this collateral source rule. This collateral source rule says that you reduce the amount of damage award by what you have received from other sources and that can include any other sources. It can include Social Security, disability payments, insurance payments, it can include a whole variety of things.

Presently, those reductions are already negotiated with most of those sources but this takes it at 100 percent and the result is, the people who have suffered from medical malpractice are the ones that experience the loss. I don't think it is fair to make the people least able to pay for rural health care be the ones to pay for it and that is what this bill does. That doesn't seem right. It seems to me if we do have a problem and I do agree that we do have a problem, then we have to address that problem more directly.

I have started thinking in my head about what I would do next year, now that I know a little something about this topic and I started thinking about "no fault insurance" in the area of medical malpractice and get rid of all this fault system, get rid of all the lawyers fees, the plaintiff and the defense lawyers, expert witnesses and the people who record all these depositions. Let's simplify this process and let's make sure that the insurance dollars go to the victim.

This bill does not do that. What it does is it makes the people least able to pay for the rural health care to pay for it. That is why I think it is a bad compromise, so I would support the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Conley.

Representative CONLEY: Mr. Speaker, Ladies and Gentlemen of the House: It is two in the morning and I missed a lot of my Tort classes, which were two in the afternoon so I can understand why people in here would not to stick around, especially for a

first-time lesson in how this stuff works. I still don't know how it works and I am not going to try to tell you how it does.

I just want to comment. Representative Hastings, he had me, I was with him, he brought me to the brink, he went on for 25 minutes about this bill and not being able to put an amendment, which was not before the body, on it. He had me all the way because he was talking about all the right reasons why this bill is bad. When I first saw this bill, when it came out from that little committee, which our Honorable Speaker had put together, because our poor Judiciary Committee really just couldn't come to terms with it -- when I first saw this thing, Representative Hastings participated in it and with all due respect to members of this body and the other body that participated in this, I read this and said, "Donald Trump didn't take Merv Griffin worse than he took that group."

I looked at that collateral source language -- let's make it straight and clear, it is the only thing in this bill that the insurance companies and the doctors care about. The Rural Medical Access, the demonstration project, the discovery, they are just nice little shady groves around that dinosaur that is buried inside there, that they have been trying to get through this body and the other body for ten years. I looked at that and said, "Representative Hastings is a genius. He has gotten exactly what they want, not a collateral source provision which will go before the jury where you have somebody who is going to take a look at it, give the person a fair shake in how to consider it, but something that is after the verdict, after the jury has gone home. This poor person is now there and the judge has got to get out a calculator and take away from him or her what they rightfully had put aside for them." It boggles the mind. I looked at it and said, "He's got it." Then I heard him speak and I said, "No, he knows, it is really these other things." It made me feel that yes, he is for the good things in this bill, which these other things really aren't. How to fund it? They didn't care how they got to where they want to get to, the insurance companies, as long as they got that collateral source, we'll fund this beautiful little program with this.

Representative Hastings has just told us, there is no money for this provision in here. The money to fund this access program is already there and the 20 percent savings they had, premium reductions in the last rate filing. They are sneaking around out there now in the hallways waiting to file the next one, 20 percent more. There is plenty of money out there to fund this program. I thought this program, especially the access program, was also Representative Hastings but, going through the file, believe it or not, the Speaker of this Honorable body had that same bill two years ago and that is where it came from. It was a good idea then, it is a good idea now, but with collateral source, that is all they want, they don't care about the program, they don't care about the demonstration project. I grant you if we had caps, yes, there would be money generated to fund the program. It is a policy issue. This program should not be funded on the backs of victims, period. That is what this bill is about. Even though this is in the bill, collateral source, it won't generate a nickel. The only thing that is going to come out of the bill, the monies that are saved, will be the monies that are taken away from the victim by the judge and then given to who? A kickback to the insurance companies, right back into their pockets.

This bill is bad, it is real bad and it is even worse at two in the morning.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: If I could just set the tone for the rest of this debate -- I have served on Judiciary for the past four years and I guess I can capsule this compromise in just a few sentences.

This is not a great bill, it is not a good bill, it is a mediocre bill, but I am going to throw it a vote.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps you have some idea now why the Judiciary Committee had such a hard time trying to find a compromise on a bill to do something about access to medical care.

As I told you earlier, I had agreed to the compromise. I really felt and I feel that this is a beginning. I think it is a good bill. I think it has a problem with the funding, it would be better funded if it had the caps. However, from the collateral source there will be some funding.

I think it is a good bill but I was waiting to hear what the ruling was going to be on the amendment that was previously offered. When this compromise was put into place, it included four elements. It didn't say what it did not include, it only said what it included and it included the demonstration project, the access to rural care, discovery and the collateral source rule. After you skip over the front page, that is what you will find in all of the pages.

When I signed the bill, I signed it very quickly, I knew what was inside and I did not realize what was in the title until the bill came to the floor of this House. I had agreed that I would not vote for caps in order for the compromise and that is why I was willing to keep my part of the bargain. However, in my mind, whenever you have a bill, it is fair for all sides to be able to present their amendments, all sides. Those of us who were working on this, working on the procedure, we knew what some of the amendments were going to be that were going to be offered on this bill. We knew there was going to be an amendment for caps, we knew there was going to be at least two amendments on collateral source and we didn't know what else and that is fine, that is fair. They could debate their amendments and they could vote them down and I was willing to stay with the compromise. Then this bill appeared and, as soon as it did, I realized that a real mean trick had been played in the title because, in the title, it didn't just mention the four things that were included, it also said without imposing caps on damages and that meant that the person who would be offering the amendment on caps would have his amendment not be germane. I did not think that that is fair. I don't think that is fair and that is the reason I was waiting to hear what had happened to that amendment.

I do want to say that I accused the Speaker of writing that title, I do apologize, he didn't write it, Representative Paradis wrote the title to that bill. I am.....

The SPEAKER: The Chair would remind the Representative from Presque Isle that she could have read the bill before she signed it.

Representative MACBRIDE: You are absolutely right and I was remiss. I had confidence, Mr. Speaker, and I am very much disappointed that that title was to appear on a bill in which such a hard

compromise had been worked out. I am really disappointed in the process because I really feel that here in the House we all should have the opportunity to express our ideas and present whatever we wish. I think it was really completely unfair.

At this point, I am so disappointed and discouraged, I hardly know how to tell you how to vote on this bill. I guess I will just have to leave it up to you to do whatever you want to do.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Rand.

Representative RAND: Mr. Speaker, Men and Women of the House: This whole discussion has really bothered me. In my mind we have not brought up some very important, not technical, but very basic and very important items. One is, we seem to be operating under the assumption that the insurance companies aren't making enough money on their malpractice rates. Every bit of evidence that has come before the Judiciary Committee and whoever else has been involved in this has proven just the opposite. They are making plenty of money. Between the years, 1982 and 1986, the OB/GYN doctors in the State of Maine paid \$4.75 million in premiums. This went on to earn \$500,000 in interest. They paid out \$27,500. We are seriously discussing curtailing the likes of American citizens to their due process in court -- for what reason?

Let's bring the physicians into this. They are being charged way out of reason, I will admit that, but you know a little bit of the responsibility lies with them, they do not police themselves very well. In fact, I don't think they police themselves at all. I spent 15 years as a nurse in a hospital and I personally saw all the physicians, the good physicians and the majority of them are, allow a cocaine addict M.D. to continue to practice. Another gentleman, who in his day, was one of the finest surgeons that we had in the State of Maine but he had progressed with some disease process that had taken over and the man had progressed to the point where he couldn't hold a pencil in his hand and they allowed him to continue to do surgery to the point where he did a simple D&C, ripped open the woman's uterus and, thank God, there was a physician standing right outside the door who could come in and do the emergency hysterectomy and saved the woman's life.

I can't believe that we are attacking the problem from this end, the problem is the greed of the insurance companies, coupled with the fact that the doctors really do not do any kind of a job policing their brothers and sisters in the profession.

When I mentioned this to a person who is on the other side of this issue, I was told, "Well, all coworkers have a hard time turning in their fellow workers." I find that terribly unacceptable. I think we should indefinitely postpone this bill, all its papers and any tort reform junk that comes before this body.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I will be much briefer. I was just shocked, frankly, that I found myself entombed with a bill with the Speaker. I didn't realize that he had written such a bill two years ago. Gee, I am just amazed that he came to such a brilliant idea because I do think that that is a fairer idea, the Rural Medical Access Program, which is part of this bill.

I disagree with the good Representative Rand as to the figures that she quoted. I have them exactly. It is only 2:25 a.m. and at this hour, it is not too hard to get a few rows mixed up.

In any event, during that same time, the figures were \$4.4 million and plus that were paid out of the premium losses.

I do speak briefly to collateral source, which I do not intend to even legally explain. I will tell you that it is a decision that we have to make if sometime we are going to go forward and get a handle on health care costs. You can argue and you can listen to lawyers, you have already heard one of them in debate indicate that this costs 50 cents on a dollar of every premium paid goes to the lawyers in this field. If it is 50 cents on a dollar going to lawyers, you can bet -- they don't want this bill, anything that will cut down on their fees, believe me, lawyers don't like that. Guardians of this bill not becoming law are lawyers. I am one and I can't say that I am proud of that position.

It is a good law for the common good and I do urge you to continue to vote against the present motion so the bill may be later engrossed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I have sat here for three days, four days, five days and ten years talking about health care costs. I have sat in Room 436 longer than I have wanted to some days talking about health care costs.

I am going to tell you how to cut health care costs. I know that you don't want to hear it but we have a certain summer resident that comes every year, maybe he comes two or three times a year, it is the President of the United States. We tell him, first of all, that you have got to start funding the Medicare program properly, that is one way to help cut down health care costs. If they fund that properly and they fund the Medicare program properly, we will be able to cut down the health care costs.

Everybody has been talking about this bill as though it is the thing that is going to cut down health care costs, it is not. If you honestly believe this is going to cut down on your health care costs, I got some swamp land in Portland. I don't think there is any anywhere there so that tells you something.

We have talked about the underserved areas. A year ago, a young lady in Biddeford (Representative Hastings) indicated that she was eight and a half months pregnant and wasn't able to see an OB/GYN. I want to know whether or not Biddeford, a community 15 miles south of Portland, is an underserved area?

I hear us talk back and forth about the insurance companies -- can somebody please tell me tonight whether or not the St. Paul Insurance Company reduced their rates by 20 percent and a predicted reduction in rates of another 20 percent? Are we going to be able to reduce our Medicaid rates because they won't be charging us as much? That is a question I think we ought to be asking ourselves tonight. We are looking for some more money -- maybe we can look at it this way. If you truly want to cut down your health care costs, get the Medicare program paying what it should be paying, get the Medicaid program paying what it should be paying, you fund the Maine Health Program, you get more people insured -- with those three programs, we would reduce our health care costs by approximately 20 to 30 percent. Ask members of the committee who I serve with and they will all tell you the same thing. The hospitals will tell you the same thing, the insurance companies will tell you the same thing and I am sure maybe even the doctors will tell you the same thing.

There is one other thing I want to bring up. We talk about the rural health care -- my committee sent

a letter to Senator Cohen and Senator Mitchell, Representative Brennan and Representative Snow indicating there is a real major problem. As most of you know, three hospitals in this state have closed already. Those hospitals can't operate as a rural health clinic and get Medicare. That is a problem. If doctors can't get money, they are not going to be able to pay the health insurance. I think we have to realize that that is an important problem right there before we go too far with this bill that is going to solve the health care problems of the state. It is not. If you go home and tell your people that this is going to solve it, you are wrong.

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

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

The SPEAKER: The pending question before the House the motion of Representative Richards of Hampden that L.D. 2513 and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Gurney.

Representative GURNEY: Pursuant to House Rule 7, I request permission to pair my vote with the Representative from Portland, Representative Høglund. If she were here and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House the motion of Representative Richards of Hampden that L.D. 2513 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 260

YEA - Adams, Allen, Anthony, Brewer, Burke, Carroll, D.; Cashman, Conley, Cote, Daggett, Dore, Farnsworth, Hale, Heeschen, Holt, Jacques, Ketover, Kilkelly, Manning, Marsano, Mayo, McKeen, Mills, Mitchell, Nadeau, G. R.; O'Dea, Oliver, Paul, Pederson, Pineau, Priest, Rand, Richards, Rotondi, Sheltra, Skoglund, Stevens, P.; Swazey, Townsend, Tracy.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Bell, Boutilier, Butland, Cahill, M.; Carroll, J.; Carter, Cathcart, Clark, H.; Clark, M.; Coles, Crowley, Curran, Dellert, Dexter, DiPietro, Donald, Duffy, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Graham, Greenlaw, Gwadosky, Handy, Hanley, Hastings, Hepburn, Hichborn, Hickey, Higgins, Hussey, Hutchins, Jalbert, Joseph, Larrivee, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Mahany, Marsh, Martin, H.; McCormick, McGowan, McHenry, McPherson, Melendy, Merrill, Michaud, Murphy, Nadeau, G. G.; Norton, Nutting, O'Gara, Paradis, E.; Paradis, P.; Pendleton, Pines, Plourde, Pouliot, Reed, Ruhlin, Rydell, Seavey, Simpson, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tammaro, Telow, Tupper, Walker, Webster, M.; Wentworth, Whitcomb, The Speaker.

ABSENT - Chonko, Constantine, Dutremble, L.; Gould, R. A.; Jackson, LaPointe, Lawrence, Lisnik, Luther, Marston, McSweeney, Moholland, Paradis, J.; Parent, Richard, Ridley, Rolde, Tardy.

PAIRED - Gurney, Høglund.  
Yes, 40; No, 90; Absent, 18; Vacant, 1; Paired, 2; Excused, 0.

40 having voted in the affirmative and 90 in the negative with 18 being absent and 1 vacant, the motion did not prevail.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: The important thing for the House to do at this juncture is to study the part of this bill which has been told to you as being the weak link and that is the collateral source rule itself.

The collateral source rule is Section 3 of the bill. It provides a number of things which you need to consider. As we start the consideration of those, I want to call to your attention two provisions of our State Constitution, Section 19 of Article 1, which says, "Every person for an injury done him in his person, reputation, property, or immunities shall have remedy by due course of law and right and justice shall be administered freely and without sale completely and without denial promptly and without delay."

Section 20 says, "In all civil suits and all controversies concerning property, the party shall have a right to a trial by jury except in cases in which it has heretofore been otherwise practiced."

I read those provisions of the Constitution to you, not because I can tell you what any court will do with them, but because I can tell you that those are the principles by which we should be guided as we evaluate the collateral source rule that appears in Section 3 of this bill.

First of all, I think it is important to begin to understand what a collateral source is and simply looking at the description of collateral source is not completely helpful. I have said, jokingly, that the provision in Section 1, which accepts life insurance benefits, is simply another example of the fact that the casualty insurance industry as represented here and that the life insurance industry is not because, quite clearly, a life insurance policy is a collateral source. It is simply one which for reasons are part of the compromise perhaps has been left out of the collateral source picture as the poor victim bears the weight of what is the most hideous of the provisions of this rule and that is the second trial.

The second trial is provided for in Section 2 of the collateral source payment reduction section of the bill. What it does is it takes a plaintiff who has just gone through a medical malpractice trial and been successful and, from that, requires that person to then try the case completely over again. The person is given the opportunity to have a trial after a verdict for the plaintiff and before the judgment is ordered or is entered on the verdict. It seems to me as though it is a horribly unfair burden to place upon a poor plaintiff who has just gone the long arduous route that you have heard described by others here this evening. It is a route which is very, very difficult.

I do want to say, as Representative Anthony said to you, because so many of you know that I am a lawyer. I am a lawyer and I do personal injury work, I do not do medical malpractice work. I have never tried a malpractice case and I have (frankly) no intention of trying them. The burdens of malpractice work are for a specialized group of trial lawyers.

I would point out that I did have the good fortune to serve on the Tort Oversight Commission last year and I learned and I continue to believe that defense costs consume 50 percent of every insurance premium dollar paid by doctors in the State of Maine and that the industry, both the insurance industry and the legal defense industry, do not really want to address that. I say that because I was present at some of the hearings in the Judiciary

Committee on this bill when one of the finest judges who serves in a capacity of trying to make the medical malpractice screening panels work told them that what they ought to do is change the discovery rule so that discovery would be done either at the malpractice screening panel level or at trial, but not at both. Although there is a slight change in the discovery rule in this bill, there is nothing in it that is going to be terribly helpful.

In any event, what happens is that the victorious plaintiff will shortly find that he or she is confronted by another trial situation in which he or she must in some way plan to deal with the damage recovery that he or she has and the way in which it is going to be reduced. The horrible part of this bill, as it relates to that second trial, is the fact that the damages must include a consideration of what the future holds for this person, that is, the person is going to be burdened, not just by what has been paid by the collateral source, but is also going to be burdened by the requirement of having proof as to what the future medical course or the future wage disability course or the future social security or social security disability course will be, because those will then be used to reduce the damages which the jury awarded.

I have made no secret of the fact I served on the Judiciary Committee some years ago when this matter was considered, it was considered all the time and I had no problem with a collateral source rule which simply allowed the jury to hear all the evidence and make the decision. I feel good about that because I think that is what Section 20 of our Constitution suggests to us that we should do, but it just says, in all civil suits and in all controversies, the parties shall have a right to a trial by jury and I agree with that.

I think if you have a problem in this state and you want that problem resolved, that you don't want lawyers and judges doing it when it is your whole life that is in your hand, and if you want that right to a jury trial, you should have it.

Representative Hastings talks about not being pleased to be a lawyer. I am pleased to be a lawyer, I don't know what else I would do. I have enjoyed practicing law and I have enjoyed helping people resolve their problems. But, I know as a result of that trial practice that I have had and the experience that I have had that there is a greater satisfaction in people, win or lose, when it is a jury of their peers that resolves their problems. The jury system works, it may be a little bit more cumbersome, but it has a common denominator to it because it is a pool of people who bring common experience and common sense to the resolution of their fellow's problems and that is what we need, that is what we need to put into this law if we are going to make it work. I don't disagree with some of the things that have been said about it.

In the years that we were working on this problem and the question about how we were going to deal with access to rural areas and physicians who weren't being paid enough, I suggested that we create some kind of state fund that would simply pay them because I believe that the doctors of this state create a quality of life that is essential if Maine is going to continue to be the place where we all want to live. It was for that reason that I proposed, when I was on the Judiciary Committee, a matter which is before you tonight as House Amendment "A" with a filing number of H-1136, which I hope you will take the opportunity to read, because shortly, I am going to offer it to you as an alternative to the really burdensome rule that I think exists in the bill.

What I want to point out is, just as I said, life insurance was a collateral source, so is a defendant's insurance policy a collateral source. There is no reason why, if you want to have a collateral source disclosure so that a jury makes a full decision about problems, that you don't disclose all the collateral sources that are available, social security, wage insurance, hospital insurance, medical disability payments, employers payments, employers continuation payment, all the things that are laundry-listed in that bill and as well the defendant's policy because that is a collateral source. If you do that, I don't know what the kinds of resolutions would be. I know all kinds of people speculate about it but I am prepared to suggest to you that it is a superior means of dispute resolution and it will resolve problems in a way in which people want them resolved and that is the policy that I think we should be focusing upon. For that reason, Mr. Speaker, I present House Amendment "A" (H-1136) and move its adoption.

House Amendment "A" (H-1136) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: It is as fantastic that we can all get a chuckle here and there so we can wake up and get ourselves a little bit rested here, it's quarter to three now.

Tonight we have just heard one of two or three amendments which we already have on our desks attacking this process and this bill. Frankly, I will be very brief. You will like that.

The Maine Trial Lawyers of which perhaps 200 do malpractice in this state share with costs in one-half, one-half, of the premium costs in this state and do you know what those are? In the State of Maine, they are \$40 million. \$20,000 go to attorney's and their costs. That is what we are fighting about here tonight folks. You can bet your bottom dollar that the lawyers don't like this bill. I hope you vote against the amendment.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: There is no one I admire more in our Judiciary Committee than Representative Hastings. He is one of the smartest men I have ever had the pleasure to work with and he is also smart enough to know the way to win a battle in this House is to cast the good guys against the lawyers.

I am getting a little tired of lawyer bashing tonight because I will tell you one thing, you may think the lawyers represent themselves but I want to ask you right now, who out there in that hall is injured and is hurt and is suffering from medical malpractice? Who do you think is speaking for those people? You know the lawyers do have a function ladies and gentlemen, it is not just to bat around in the House, they speak for people who are injured, they make their living doing that, so what? We all make livings doing things. They speak for perhaps you when you are injured tomorrow. Who else is going to do it? Do you think you are going to be injured, do you think you are going to leave here tonight at three o'clock, drive home, be injured, go to the emergency room and be injured more by medical malpractice? Of course you don't. You don't think that is going to happen to you. Well, it can ladies and gentlemen, and then maybe you will be looking for that lawyer, right? Maybe then you will do some bashing, right? That lawyer speaking for your interests has been in this hall and your interests

and his interests are not necessarily incompatible. It is a good way to win an argument and I think I have taken it just about up to here tonight because this is a very serious issue. The issue is, who pays when somebody is injured? Does the victim pay, do we blame the victim or does the wrongdoer pay?

I will try to reduce collateral source to its very fundamental and let's see if we can understand it. I have struggled, I know it is hard, people think it is collateral estoppel just like the new State Capitol, well, this is what it means, it means I pay for insurance my whole life and I deny my family for 20 years. I pay homeowners insurance and I pay disability and I pay health insurance and then I go to the hospital and I am injured by a doctor and the doctor is convicted, I don't say he did wrong, the jury said he did wrong. But you know what now? You pass this bill and you know what is going to happen? I am going to pay the injured person for all this insurance company I have been paying for years and years for my disability, for my health insurance, guess what, you know who is going to pay? Not the doctor who has been convicted, no, I am going to pay. Now that is the fundamental issue, is that fair?

If you drive your car out of the parking lot tonight and someone hits you, do you think that you should pay for the damage or do you think that the person who hit you should pay for the damage? That is it in its basic form ladies and gentlemen. Doesn't your sense of fairness tell you that the wrongdoer pays? Why do we have to kick around the victim? This collateral source -- you know what it would do? It would be able to attach your homeowners, your automobile, your disability, not only right now, but in the future, for payments they might pay you because of the injury that was done to you by a doctor who did malpractice upon you. Is it fair? The worst thing about it, the very worst thing about it is that it doesn't even give you what we are trying to achieve.

The majority on the Judiciary Committee could not agree. There are good reasons why not. I support the rural access. I support the demonstration project. Those are wonderful ideas. Of course we all agree, but why didn't we all support the bill? Because you don't get what you are supposed to. You give away one of the most important principles of our society, we don't blame the victim, the wrongdoer pays and what do you get back? You get back a wish, a fantasy, you get back this hope. Peter Manning has said it is a mere fantasy, you are not going to get what you are trying to get and, in the meantime, you take away an important right. You are making a bad trade. It is ten of three in the morning and you are getting ready to make a bad trade. The least you can do to try to do some good to this bill that does so much harm to fundamental values, you can at least support at this hour Representative Marsano's amendment because it tries to give some sort of balance. You know what it says? It says this, all right, we are going to tell everybody that you have got this homeowners and this automobile, it is right in the bill ladies and gentlemen you can see it, we are going to tell the jury that you have got this homeowners insurance and you have got this disability insurance so they are not going to have to pay you so much. Representative Marsano's amendment tries to balance it out. It says, all right, you want to tell the court that this person has disability insurance and he has been paying for it for 25 years to protect his family, fine, but let's also tell the court and the jury one other thing, and you know what we want to tell them? We want to tell them that the doctor has insurance. If the doctor is forced to pay, we

are not going to take his home, we are not going to take his car, we are not going to take his first-born son, no, we are going to tell the jury this big surprise, the doctor has insurance. Now do you think that should be a secret from the jury, ladies and gentlemen? Why should it be a secret? We are not going to keep a secret from the court that the poor injured victim paid for disability for 15 years but we are going to keep it a secret from the jury that the doctor has insurance. Is that fair? I suggest you support Representative Marsano's amendment.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Those of us who worked on this compromise knew that we had to make compromises but the compromises that we agreed to are not exactly the ones that were described by my friend and seatmate on the Judiciary Committee. We have not bargained away the rights of victims, we have not put the burden of financing this system on the victims, and we have not done most of the things that we have been accused of doing tonight. What we sought to do in this narrowly constructed collateral source rule, that many good people that I respect worked on formulating, was to reduce double dipping. It is not easy to do, we may not have done it perfectly, especially in the last few hours of this session but what we were looking at is double dipping. When you receive payments from your insurance, from the city, from social security and then you get a judgment, some of that ought to go back to those sources, not to the insurance company. That is why I have opposed other collateral source bills presented in this body in the last couple of days because those collateral source rules provided the insurance company would keep it. I said to my caucus that I was against it and I am against it tonight and I am going to be against it next year. This one, the one with my name on it, does not provide for that.

I urge indefinite postponement of House Amendment "A."

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I didn't speak earlier this evening (actually this morning) because it was this morning but I am speaking now because this upsets me so much.

I support the amendment, I am therefore opposed to the most recent motion to indefinitely postpone this amendment. The reason I do is because in the alternative I would prefer to kill all of these bills. I don't think they are well thought out for the same reasons that the Judiciary was not able to reach agreement on these bills, despite the wonderfully hard work and the attempt to take into account all the different interests involved here, these bills don't do it. What they do is they have laudable goals, everybody wants to have rural health care access. That in particular, I think, everybody would really like to have. This bill predicates it on something that doesn't exist in terms of cost reductions so it won't happen as a result of this bill. Everybody would like to see if there is some way to reduce defensive medicine costs. This bill would do that but along the way, it will reduce the liability of insurance companies, but it doesn't do anything to guarantee that those reduced liabilities will be translated into lower premiums or lower health care costs. So, in exchange for that, we end up trading away part of people's rights under tort law. Tort is civil injury, the right under our legal

system to address a civil wrong. So, I call this tort deform because it takes away from people a basic right under our system.

I think that it is simply misguided to take all of the effort that has gone into this bill and say that we have accomplished anything.

I totally agree with what Representative Manning said earlier. I think that the only way to balance the inequities here is to pass this amendment. I would urge you to not to vote for indefinite postponement because if, in the end we voted for this bill without Representative Marsano's amendment, what we have done is not accomplish what people would like to accomplish because they aren't going to work. We will have granted one more of the things on the list that the insurance companies want. The thing that upsets me, in addition to the reasons that Representative Stevens mentioned about the comments about lawyers this evening, is that I think the entity or the interest that gains the most from pitting doctors against lawyers to the extent that that is even true are the insurance companies. In all of this, every time you reduce the liability for an insurance company or for somebody that is insured, whether it is the doctor or somebody else, and you don't require that something happen to reduce the rate, eventually, then what has been the experience in this state and elsewhere is that the premiums just continue to go up, the costs continue to go up and you have just cut people's liability.

I think the most compelling argument I have heard in this entire process and I haven't heard it tonight but it was discussed the other day in our caucus is that this is very reminiscent of Workers' Comp where people struggled with what everybody agreed was a common problem and, little by little, gave away people's rights and in the long run, we have the same problem we had before and people have fewer rights.

I guess I would just ask people to really think very seriously about doing that again because in this state we don't need to go back home and say to your employers and people who are concerned about health costs that we have done nothing about health care costs in this state starting with the work that was done on the Trafton Commission. There have been a number of measures passed like structured payment of awards, prelitigation screening panels which everybody agreed this year have really been very successful. I think within another few years, we will find significant savings from that process.

We have done away with the addendum clause, we have modified the statute of limitations, we have established a fee schedule for attorneys so we have done something about those costs there. There are other measures that have been passed already. So far, neither the Bureau of Insurance nor the insurance companies have really seen fit to identify or even to study without our requiring it where in all of those changes there are costs saved. They claim that there will be costs saved, that there have been costs saved, but they haven't been able to identify them and they really haven't taken time to study it.

We just passed a bill this session to require a closed claim study. I think that when that is over, it might be appropriate to talk about other approaches because then we will know what works and what doesn't but right now it is not an appropriate time to do that.

I also think that in the case of this bill, I am not concerned about going back to the doctors in my district because I think it is not fair, frankly, to charge doctors out of alleged suggested savings from premiums that supposedly are going to be found and I

don't believe they will be because, if you look at the experience of other states and I don't agree for example that Minnesota had tort reform, they had insurance reform, and they just had 25 percent decrease in their insurance out there. The Minnesota Insurance Commission decided that was not enough and sued the insurance company and won their case and got a \$1.5 million rebate for the doctors out there. It seems to me that if it is true that the insurance premiums are too high and our programs have not been monitored adequately that way, that the way to get at that is by insurance reform, not by taking it away from the victims because the doctors won't see those benefits either.

I just feel that none of the people that we are hoping to help with this are going to be helped except the insurance companies.

I would urge you to vote against the motion to indefinitely postpone. If you want to go home as much as I do, just vote against everything.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: Two of the statements that were made by the Representative from Augusta were simply not accurate. When he said that none of the rights were taken away is simply not confirmed by any clear reading of line 42 on Page 2 of the Bill which says that, "if the court determines that all or part of the plaintiff's expenses or loss has been paid." Clearly, there is no jury trial right, clearly the jury trial has been eliminated. More importantly, the Representative from Augusta, Representative Paradis, is wrong when he suggests that the insurance company is not going to hold certain kinds of benefits. Read the thing about federal benefits. The court shall also reduce the judgment by the amount of Medicare, Medicaid or Social Security Disability benefits paid or payable to the plaintiff for the plaintiff's expenses or losses provided that the court enters an order requiring the defendant to indemnify and make whole. So, they are going to reduce the amount that the defendant, not the doctor, the doctor's insurance company is going to have to pay. I suggest to you that the fair thing to do is to put the plaintiff in the position where the plaintiff can tell the jury what the facts are and let the jury resolve the plaintiff's problems.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Paradis of Augusta that House Amendment "A" (H-1136) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

63 having voted in the affirmative and 47 in the negative, the motion did prevail.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: I prepared an amendment to follow the one which we just debated which does not really need much further debate. I recognize that by introducing the possibility of a true collateral source before the jury that the House might feel that the defendant's insurance policy should not be available but that the reason for having a fair playing field, a level playing field, in which the plaintiff would disclose the collateral sources he had but have the jury make the decision without a full collateral source might be something which the House would favor. According, I offer House Amendment "B" (H-1137) and move its adoption.

House Amendment "B" (H-1137) was read by the Clerk.

Representative Boutilier of Lewiston moved the indefinite postponement of House Amendment "B" and requested a division on the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I will not add to what I said before except to comment specifically on collateral source. Collateral source in fact reduces the liability of the doctor who has been found guilty of malpractice by reducing their liability if the patients they injure are insured. This bill mandates that insurance for patients be taken into account and subtracted. It says, "if the collateral source has not exercised its right."

I just wanted to call your attention to the fact that presently there is possible, without this law, it is possible for every (of these collateral sources) every insurance company to provide by contract for the power of subrogation. In other words, they don't need this statute in order, really, to protect their interests to recover and prevent this kind of third-party liability in most cases. As a matter of fact, the testimony before the Judiciary, as I understood it, was that in most cases those insurers are beginning to do that.

I think that it is easier to see what this bill does is provide by statute a benefit for the insurance companies that it really means that the injured person has to bring the suit and go through all that effort and work and then the insurer walks in and takes their share of the money. Without this law, the insurance company would probably be the one to bring the suit. I think that, as a result, it should be kept in mind again that the kind of amendment that Representative Marsano has proposed is helpful to equalizing the situation here. I would oppose the motion to indefinitely postpone, I would support his amendment, and I would ask, again, that you consider that it would be much faster to be able to leave here if we would all vote against all of these negative positions.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: This is real simple, it is a question of letting the jury know about the other sources of payment that can come to these people and it seems a pretty reasonable thing to do that the jury should understand about collateral sources that the victim has so they can make a fair verdict, that is all this amendment calls for. Let the jury know about the collateral sources. That is all we ask. It is a pretty reasonable idea. I hope you will vote against indefinite postponement.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Boutilier of Lewiston that House Amendment "B" (H-1137) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

62 having voted in the affirmative and 50 in the negative, the motion did prevail.

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

Representative STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: We are not going to go on all night, it is only because we care so much that we



are trying to do what is best. I know well-meaning people can sincerely disagree and have for a decade in this state over this issue. I don't challenge the motives or intentions of anyone in this body but it means a lot and is important so we are going to continue.

I offer House Amendment "C" (H-1138) and move its adoption.

House Amendment "C" (H-1138) was read by the Clerk.

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

Representative STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: If it is the will of this body to pass this bill tonight, to take this chance, I am giving away something I consider very important, something about our civil justice system for an uncertain gain, an admitted uncertain gain by Representative Hastings, this probably won't pay for it and an admitted uncertain gain -- everyone is on Record knowing that tonight.

This is what my amendment does. My amendment sunsets this bill in 1992 if (it doesn't automatically do it) -- it sunsets the bill if this scheme, this collateral source scheme, does not indeed raise \$250,000 to fund this rural access program. What that means, if the state doesn't realize all this money from taking away people's jury rights, if there is no money in this fund, then we are going to give them back the jury rights. That is all it means. It means in 1992 if it hasn't worked, if there is not money in the fund, if there is not money going to rural health care providers who deliver babies, then the bill is going to be sunsetted. It is not an automatic sunset, ladies and gentlemen.

You wonder why I put it on, why didn't I just bring back a bill in 1992? Number one, I may not be here in 1992, but more importantly is this, it has been said on the floor tonight that what was really wanted was not the rural access fund, not the pilot project but what was really wanted was collateral source rule. It has been fought for in a decade, it has been around, it is an old battle.

My bill does say, if the excuse to get collateral source tonight, that is funding the rural access, getting help to our doctors out in rural areas, if it doesn't work, if that is reason for passing this collateral source rule doesn't work, then in 1992, we are going to get rid of that collateral source rule if we don't have \$250,000. That is all it says, if it can do what it is supposed to do, this won't be a problem. All it has to have is a very minimum, the minimum that is in this bill is \$250,000 for the fund. It is not asking for anything that is greater than what is in the bill. It is not asking for a lot ladies and gentlemen. I suggest you at least be cautious enough to say, yes, we will give it a chance, that is what you are doing tonight, we are going to give it a chance. But, in two years, if it hasn't met its expectations, we are going to sunset it. I would really appreciate your support tonight on this ladies and gentlemen, we are trying to get one balancing part of this bill.

Although it is presented as a compromise, it was never a compromise for me. Unfortunately, I was not one of the anointed people to participate in the negotiations. I have been angry about it for about five days. Of course, I have been a terrible person to have on that subcommittee because I would have fought real hard for what I thought was right and that wouldn't have been conducive to reaching this compromise. But the compromise was not acceptable to many, many people who were on the Judiciary

Committee, they have spoken tonight. There was one person who worked diligently in the Judiciary Committee through the whole thing and that was Representative Hastings who held contrary views to many, many other people on the Judiciary Committee. So, I ask you tonight with this one amendment and the spirit of saying yes we believe what is being said but we are just going to have a double check on it. I ask your support of my amendment.

Representative MacBride of Presque Isle moved the indefinite postponement of House Amendment "C."

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I have supported the indefinite postponement of previous amendment but, in this case, I have to agree with Representative Stevens.

I, too, feel that there is an effort by the report to fund the demonstration project with monies from collateral source. I also feel and agree with other members that I don't think there is going to be enough money raised to do that. So, I think it is important that we have a moment in time, if it is two years from now or whatever, that is what the Representative picked and that is what I can agree with, whereby we look at that issue and say, do we want to make a policy choice about collateral source and make it in the affirmative or do we just want to have a collateral source as a way to fund the demonstration project? I think the demonstration project will work. I think it is a quality program and, if it can be funded with collateral source, so be it, but if it can't, we should fund it with the General Fund and then we should make an affirmative vote on collateral source. I feel that this amendment will make us revisit this issue, make sure that we're not hurting those that we don't want to hurt and also deal with the issue of funding. I would urge people to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I do support this motion to indefinitely postpone because we have been told by the actuary that it takes several years for any of these tort changes to work into the system. In fact, they are talking four and five and even six years for tort to work into the system itself. So, you are not going to know the full ramifications of collateral source or any other changes under this law in two years.

There are two parts to it that we reap the benefit from, one is the collateral source, the second is the demonstration project. The demonstration project doesn't even start until 1992. So, you are not going to get any of those benefits directly to a large amount with any clarity until beyond 1992. There may be some savings but the clarity of them does not occur until further out and the demonstration project starting in 1992 clearly has no benefit until after. I urge you to join in indefinitely postponing House Amendment "C."

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: The previous speaker has given you the reason why you should be supporting this amendment. I served on the Judiciary Committee in 1986 and then was appointed to what became known as the Trafton Commission, looking at all the issues that we have discussed at length tonight. In 1986 when we passed the Comprehensive Medical Malpractice Act, when we instituted screening panels, structured awards, we

changed the statute of limitations on doctors, it was a comprehensive plan, it was a compromise that we were asked to accept. At that time, we were told by the same actuaries it would take four to five years before we would know the results of our tort reforms. Those reforms went into effect in 1987, so by 1992, we ought to know. But, guess what? In 1989, the rates went down 20 percent. Now you tell me why? It wasn't because of tort reform, it was because the insurance industry, by its very nature, goes through cycles. This bill is not going to do what you think it is going to do and, if it does, we won't know until 1995.

I urge you to support the amendment and to vote against the indefinite postponement.

Representative Martin of Eagle Lake requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Curran.

Representative CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I stand for one reason, at least to prove to myself that I am awake and I may not be. I am really puzzled because on Page 4 of the bill itself is reference to establishing a demonstration project on January 1, 1992. In the title of the Bill, there is reference to a 5-year medical liability demonstration project. We are talking in Amendment "C" about sunseting the law in 1992 -- so, am I wrong in that this is clearly not germane or don't I read that correctly?

The SPEAKER: Representative Curran of Westbrook has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Bangor, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: The question asked is whether or not my amendment is in conflict with the pilot project, the demonstration project, that is not supposed to start until 1992? No, it is not. Collateral source is the issue that I am concerned with, not the pilot project. I support the pilot project, by the way -- absolutely. I have supported it right from the very beginning. That is not the issue, the issue is that the allegation is that the collateral source will fund the rural access fund and that is when the collateral source law will take effect right away and will be in effect two years in 1992, so it can be evaluated. It is not meant to affect the pilot demonstration at all, it doesn't, it applies to a different section of the bill.

The SPEAKER: The pending question before the House is motion of Representative MacBride of Presque Isle that House Amendment "C" (H-1138) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 261

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Butland, Cahill, M.; Carroll, J.; Carter, Cathcart, Clark, H.; Clark, M.; Coles, Dellert, Dexter, DiPietro, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gwadosky, Handy, Hanley, Hastings, Hepburn, Hitchborn, Hickey, Higgins, Hussey, Hutchins, Jalbert, Larrivee, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Marsh, McCormick, McPherson,

Merrill, Michaud, Norton, Nutting, O'Dea, Paradis, E.; Paradis, P.; Paul, Pendleton, Pines, Plourde, Pouliot, Reed, Richards, Ruhlin, Rydell, Small, Smith, Stevens, A.; Stevenson, Strout, D.; Tamaro, Telow, Walker, Webster, M.; Wentworth, Whitcomb, The Speaker.

NAY - Adams, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Carroll, D.; Cashman, Conley, Cote, Curran, Daggett, Donald, Dore, Duffy, Erwin, P.; Farnsworth, Graham, Gurney, Hale, Heeschen, Holt, Jacques, Joseph, Ketover, Kilkelly, Mahany, Manning, Marsano, Martin, H.; Mayo, McGowan, McHenry, McKeen, Melendy, Mills, Mitchell, Murphy, Nadeau, G. G.; Nadeau, G. R.; O'Gara, Oliver, Pederson, Pineau, Priest, Rand, Rotondi, Sheltra, Simpson, Skoglund, Stevens, P.; Strout, B.; Swazey, Townsend, Tracy, Tupper.

ABSENT - Chonko, Constantine, Crowley, Dutremble, L.; Gould, R. A.; Hognlund, Jackson, LaPointe, Lawrence, Lisnik, Luther, Marston, McSweeney, Moholland, Paradis, J.; Parent, Richard, Ridley, Rolde, Seavey, Tardy.

Yes, 72; No, 57; Absent, 21; Vacant, 1; Paired, 0; Excused, 0.

72 having voted in the affirmative, 57 in the negative, with 21 being absent and 1 vacant, the motion to indefinitely postpone House Amendment "C" did prevail.

Subsequently, the Bill was passed to be engrossed without reference to committee and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 73 were taken up out of order by unanimous consent:

**PAPERS FROM THE SENATE**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

April 14, 1990

Honorable Edwin H. Pert  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it Passed To Be Engrossed As Amended By Committee Amendment "A" (H-445) As Amended By Senate Amendment "A" (S-279) thereto, on Bill "An Act to Transfer Jurisdiction over County Jails from County Government to the Department of Corrections" (H.P. 857) (L.D. 1189).

Sincerely,  
S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

**Non-Concurrent Matter**

Bill "An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account" (EMERGENCY) (S.P. 769) (L.D. 1994) which was passed to be engrossed as amended by Committee Amendment "A" (S-707) as amended by House Amendment "A" (H-1132) thereto in the House on April 13, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-707) as amended by House Amendment "A" (H-1132) and Senate Amendment "B" (S-743) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 75 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE  
Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Court Jurisdiction Study" (H.P. 1682) (L.D. 2328) (C. "A" H-1077) on which the Bill and accompanying papers were indefinitely postponed in the House on April 13, 1990.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-744) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 72 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Establish the Department of Child and Family Services (H.P. 1199) (L.D. 1666) (H. "A" H-1130)

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

The following item appearing on Supplement No. 77 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE  
Non-Concurrent Matter

An Act to Implement Certain Recommendations of a Subcommittee of the Joint Standing Committee on Appropriations and Financial Affairs (H.P. 1755) (L.D. 2418) (C. "A" H-1127) which was passed to be enacted in the House on April 13, 1990.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

The House voted to recede and concur.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

(Off Record Remarks)

Representative Erwin of Rumford was granted unanimous consent to address the House.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I was going to say the hour is late but I think the hour is early. I am sorry I didn't give this report earlier to you. This is the final report of the Gould/Michaud Scholarship Auction. Before I give you the amount that we realized from the auction, I would like to give you some background on the two persons, Gould and Michaud.

Steve Gould was a two-term Republican legislator who was also a music maker, a dedicated hospital volunteer and a veteran law enforcement officer and he brought a bright smile to every job he did. He had a career with the Maine State Police for 14 years and then became the chief of the campus police at the University of Maine in Orono. He formed the Steve Gould Dixieland Band, he played the trombone at the opening of one of the Legislative sessions. He spent thousands of hours in volunteer service to the Eastern Maine Medical Center in Bangor. He was a very popular and much loved legislator and he always had a good joke to tell.

Dave Michaud, a very nice young man from Eagle Lake, was a House Page for four years. One evening in 1981, Dave went out to get a pizza and was killed by a drunk driver. It was after Dave's death that this legislature, unanimously, passed our tough OUI law.

The Steve Gould Scholarship Fund is administered by the President's Office at the University of Maine, Orono. The balance of that account is \$25,701.48 including this year's proceeds. \$500 is awarded each year. The total given out so far is \$4,000.

The Dave Michaud Scholarship Fund is administered by a committee which includes a member of the Michaud family of Eagle Lake. The scholarships are awarded through the guidance counselor's office of School Administrative District #27 which includes Eagle Lake, Fort Kent, New Canada, St. Francis, St. John Plantation, Wallagrass Plantation and Winterville Plantation. The balance in that account is \$25,726.34 including this year's proceeds.

Currently, two scholarships of \$300 each are given each year. The total given out so far is \$3,500. In the six years that I have kept records of this account, the proceeds have ranged from a little over \$4,000 to a record last year of a little over \$7,500. This year we took in \$6,635.01 and, after paying all expenses including the meals, we had proceeds of \$5,387.12. This has been divided equally between the two scholarship funds. I want to thank everybody who contributed to this auction and scholarship fund.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 78 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE  
Non-Concurrent Matter

Resolve, Authorizing the Conveyance of Certain Public Lands and the Settlement of a Boundary Line Dispute Involving Public Lands (H.P. 1779) (L.D. 2446) which was passed to be engrossed as amended by House Amendment "B" (H-1135) in the House on April 13, 1990.

Came from the Senate passed to be engrossed as amended by House Amendment "B" (H-1135) as amended by Senate Amendment "A" (S-746) thereto in non-concurrence.

On motion of Representative Jacques of Waterville, the House voted to adhere.

The following item appearing on Supplement No. 79 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE  
Non-Concurrent Matter

An Act to Establish Certain Positions within the Department of Mental Health and Mental Retardation as Unclassified State Positions Subject to the State Employees Labor Relations Act (H.P. 1380) (L.D. 1911) (H. "A" H-849 to C. "A" H-819) which was passed to be enacted in the House on March 9, 1990.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

Subsequently, was indefinitely postponed in concurrence.

The following item appearing on Supplement No. 69 was taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

An Act to Establish the Rural Medical Access Program, the 5-year Medical Liability Demonstration Project, Revise the Rules Regarding Collateral Sources and the Discovery Rule In Medical Liability Cases Without Imposing Caps On Damages (H.P. 1842) (L.D. 2513)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative Tracy of Rome requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heeschen.

Representative HEESCHEN: Mr. Speaker. Members of the House: I can't believe we are doing this here tonight. I thought this was a responsible body. I thought that the sometimes interminable committee and debate process guarantees that dumb ideas didn't get through, that when hopelessly divided committees came out with hopelessly divided reports, that that was a sign that something was not well and that we probably should take no action.

On second thought I guess I can believe we are doing this now because it is so late at night and we are so beat, we can be made to do dumb things. I believe that what we have before us is a dumb thing. This body did do the responsible thing when faced with a hopelessly divided committee report from the Committee on State and Local Government on county government where we had three bills. There was no way that this body could responsibly pass any one of those. I think, since there was such division.

I would urge that we vote against this pending motion.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 262**

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Boutilier, Butland, Cahill, M.; Carroll, J.; Carter, Cathcart, Clark, H.; Clark, M.; Coles, Crowley, Curran, Dellert, Dexter, DiPietro, Duffy, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gurney, Gwadosky, Handy, Hanley, Hastings, Hepburn, Hichborn, Hickey, Higgins, Hussey, Hutchins, Jalbert, Larrivee, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Mahany, Marsh, McCormick, McGowan, McPherson, Melendy, Merrill, Michaud, Norton, Nutting, O'Gara, Paradis, E.; Paradis, P.; Pendleton, Pines, Plourde, Pouliot, Reed, Ruhlin, Rydell, Seavey, Simpson, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tammaro, Telow, Tupper, Walker, Webster, M.; Whitcomb, The Speaker.

NAY - Adams, Allen, Anthony, Bell, Brewer, Burke, Carroll, D.; Cashman, Conley, Cote, Daggett, Donald, Dore, Farnsworth, Graham, Hale, Heeschen, Holt, Jacques, Joseph, Ketover, Kilkelly, Manning, Martin, H.; Mayo, McHenry, McKeen, Mills, Mitchell, Murphy, Nadeau, G. G.; Nadeau, G. R.; O'Dea, Oliver, Paul,

Pederson, Pineau, Priest, Rand, Richards, Rotondi, Sheltra, Skoglund, Stevens, P.; Townsend, Tracy, Wentworth.

ABSENT - Chonko, Constantine, Dutremble, L.; Erwin, P.; Gould, R. A.; Hogle, Jackson, LaPointe, Lawrence, Lisnik, Luther, Marsano, Marston, McSweeney, Moholland, Paradis, J.; Parent, Richard, Ridley, Rolde, Swazey, Tardy.

Yes, 81; No, 47; Absent, 22; Vacant, 1; Paired, 0; Excused, 0.

81 having voted in the affirmative and 47 in the negative with 22 being absent and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Establish a Five-year Medical Liability Demonstration Project" (S.P. 782) (L.D. 2023) - In Senate, Passed to be engrossed as amended by Senate Amendment "A" (S-683) in non-concurrence. - In House, House Receded. TABLED - April 12, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield. PENDING - Further Consideration which was tabled earlier in the day and later today assigned pending further consideration.

Representative Marsano of Belfast withdrew his motion to recede.

Subsequently, the House voted to adhere.

By unanimous consent, was ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 80 was taken up out of order by unanimous consent:

**PAPER FROM THE SENATE  
Non-Concurrent Matter**

JOINT ORDER (H.P. 1834) relative to the Joint Standing Committee on Appropriations and Financial Affairs reporting out such legislation as it determines necessary to increase the borrowing authority of the University of Maine System which was passed in the House on April 12, 1990.

Came from the Senate indefinitely postponed in non-concurrence.

The House voted to recede and concur.

On motion of Representative MELENDY of Rockland, House reconsidered its action whereby Bill "An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account" (EMERGENCY) (S.P. 769) (L.D. 1994) was passed to be engrossed as amended by Committee Amendment "A" (S-707) as amended by House Amendment "A" (H-1132) & Senate Amendment "B" (S-743) thereto.

On motion of Representative Melendy of Rockland, House Amendment "A" (H-1132) was indefinitely postponed.

On motion of same Representative, Senate Amendment "B" (S-743) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-1140) to Committee Amendment "A" (S-707) and moved its adoption.

House Amendment "B" (H-1140) to Committee Amendment "A" (S-707) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-707) as amended by House Amendment "B" (H-1140) in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 76 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Implement the Recommendations of the Court Jurisdiction Study (H.P. 1682) (L.D. 2328) (S. "A" S-744)

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

The following item appearing on Supplement No. 74 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account (S.P. 769) (L.D. 1994) (H. "B" H-1140 to C. "A" S-707)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, was ordered sent forthwith to the Senate.

(Off Record Remarks)

The following item appearing on Supplement No. 70 was taken up out of order by unanimous consent:

FINALLY PASSED

Resolve, Authorizing the Conveyance of Certain Public Lands and the Settlement of a Boundary Line Dispute Involving Public Lands (H.P. 1779) (L.D. 2446) (H. "B" H-1135)

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

By unanimous consent, was ordered sent forthwith to the Senate.

Representative Marsh of West Gardiner was granted unanimous consent to address the House.

Representative MARSH: Mr. Speaker, Ladies and Gentlemen of the House: There was a lot of debate earlier this evening or morning or whatever it is that made reference to state employees in a negative light. I didn't get involved in this debate and I don't want to get into it now but I would like to be on the Record as stating that the proponents of state employees that I have worked with and known are very dedicated and do a good job at the task that they are hired to carry out. I give the example of these

people down front. How that lady sits there and stays awake and looks so attentive, I don't know.

The following item appearing on Supplement No. 81 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

Bill "An Act to Promote the Marketing of Fresh Produce Grown within the State" (H.P. 1460) (L.D. 2037) which was passed to be engrossed as amended by Committee Amendment "A" (H-733) in the House on February 16, 1990.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

The House voted to recede and concur.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

ORDERS

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Anne M. Larrivee of Gorham be excused April 5, 6, 7, 9 and 10 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Susan J. Pines of Limestone be excused April 7 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Harvey C. Donald of Buxton be excused April 7 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Theone F. Look of Jonesboro be excused April 7 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Alexander Richard of Madison be excused April 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Robert J. Tardy of Palmyra be excused April 12, and 13 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Norman R. Paul of Sanford be excused April 14 for personal reasons.

Was read and passed.

At this point, the Speaker appointed Representative GWADOSKY of Fairfield on the part of the House to inform the Senate that the House had transacted all business before it and is ready to adjourn without day.

Subsequently, Representative GWADOSKY reported that he had delivered the message with which he was charged.

At this point, a message came from the Senate borne by Senator DUTREMBLE of York informing the House that the Senate has transacted all business before it and is ready to adjourn without day.

The Chair appointed the following members on the part of the House to wait upon His Excellency, Governor John R. McKernan, Jr., and inform him that the House has transacted all business before it and was ready to receive any communication that he might be pleased to make.

Representative MCGOWAN of Canaan  
Representative ALLEN of Washington  
Representative PRIEST of Brunswick  
Representative WALKER of Norway  
Representative HIGGINS of Scarborough  
Representative WENTWORTH of Wells  
Representative BEGLEY of Waldoboro  
Representative McCORMICK of Rockport

Subsequently, Representative McGowan of Canaan, for the Committee, reported that the Committee had discharged the duty assigned it, and the Governor was pleased to say that he would forthwith attend.

Whereupon, Governor John R. McKernan, Jr. entered the Hall of the House amid prolonged applause, the audience rising.

The Governor then addressed the House as follows:

Mr. Speaker and Members of the 114th Maine House of Representatives: I can assure you this is one speech that I have been eager to give. The hour is late, or is it early, whatever part of the day that we are in.

I want you to know that I intend to prove to you that I harbor no ill-will from this session, I will be very brief.

When I addressed you back in January, I outlined the challenges that I felt lay ahead for all of us. Like every other state in our region, frankly, we faced a situation that was manageable if addressed quickly, but catastrophic, if left unresolved. While other states, frankly, have been stymied by partisan squabbling, we have been able to accomplish the task at hand. The people of our state, I believe, are the ones who will benefit from the difficult decisions that we have made.

Thanks to your efforts Maine has a balanced budget. Maine is one of only two states in the northeast that haven't had to raise taxes in order to make up for the declining revenues that we have all faced this year. We all realize that we have had to make sacrifices but that really is the essence of compromise. Despite the attention that was focused on a budget which obviously was the major issue that we had to address, we have made many long-term investments in this state during this legislative session, whether it was clean rivers or Edwards Dam, domestic violence, one-stop shopping for student financial aid, a new corrections bond issue or preserving access to our land for all of our citizens. I really want to commend all of you for having the political will to reach agreement on difficult issues.

I would especially like to thank the Appropriations Committee who have worked tirelessly to hammer out a budget package that was not easy. It really is because of this hard work and cooperation that we have dealt with our problem so much more effectively than our neighboring states.

Edmond Burke once said that "All government, indeed, every virtue and every prudent act, is founded on compromise and barter." Well, it is clear that that tradition is alive in Maine, you have made the system work and I congratulate you on that, I applaud you for your diligence and for your commitment to the state.

Mr. Speaker, I want to say I think that was a little bit more than a minute. I will wish you

good-bye, I will not say good riddance, instead let me just say that I hope you all get some sleep before you drive home. Thank you very much.

Subsequently, the Governor withdrew amid applause, the audience rising.

The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, and Members of the House: I don't really know what to say except that I hope you have a great summer and I have started missing you already. I move the House stand adjourned without day.

The SPEAKER: Representative Wentworth from Wells moves that the House adjourn sine die. Is this the pleasure of the House?

The motion prevailed and at 5:15 a.m., Eastern Daylight Savings Time, Saturday, April 14, 1990, the Speaker declared the House adjourned without day.