

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME V

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991

Index

FIRST CONFIRMATION SESSION

October 2, 1991

Index

SECOND SPECIAL SESSION

December 18, 1991 to January 7, 1992

Index

SECOND REGULAR SESSION

House of Representatives

January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
11th Legislative Day
Thursday, February 6, 1992

The Speaker resumed the Chair.

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

Prayer by Reverend Wayne Sawyer, Thomaston Baptist Church.

The Journal of Tuesday, February 4, 1992, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

February 4, 1992

The Honorable John L. Martin
Speaker of the House
115th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Transportation, Daniel J. Callahan of Mechanic Falls for appointment to the Maine Turnpike Authority.

Daniel J. Callahan is replacing Sam Cohen.

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Joint Resolution: (S.P. 891)

JOINT RESOLUTION COMMEMORATING 1992 AS THE YEAR
OF THE NATIVE AMERICAN

WHEREAS, the first Europeans arriving in the New World found the indigenous people a peaceful, spiritual people living in harmony with their environment; and

WHEREAS, aboriginal people have roots in Maine since time immemorial; and

WHEREAS, Maine today is home to over 6,000 Native Americans, the largest Native American population in New England, and is the home of 4 federally recognized tribes, the Penobscot Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmac Indians; and

WHEREAS, the beauty of Maine's Indian heritage is one of the State's greatest assets; and

WHEREAS, Maine's Native Americans share their culture with the rest of the world through powwows, art, museums, dance, music, dramas, reenactments and storytelling and the contributions, both past and present, made by Maine's aboriginal people benefit all of Maine's people; and

WHEREAS, the heritage of Maine's indigenous people is represented by the many place names that reflect aboriginal influence; and

WHEREAS, Maine's Native Americans have shown great strength and endurance and have strived to preserve their culture and tribal traditions through the years and changing times; and

WHEREAS, Native Americans were truly the first conservationists and their inherent respect and love of nature are a lesson to us all; and

WHEREAS, a year-long celebration encompassing the entire State is a fitting tribute to Maine's Native Americans; now, therefore, be it

RESOLVED: That 1992 shall be known as "The Year of the Native American"; and be it further

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature of the State of Maine, now assembled in the Second Regular Session, take this opportunity to call upon all of Maine's people to join in the celebrations planned for the year of 1992; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Governor James Sappier, Governor Robert Newell, Governor Cliv Dore, Chair Clair Sabattus and Chair Mary Philbrook in honor of the occasion.

Came from the Senate, read and adopted.

Was read.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Attean.

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: I take this opportunity to rise to speak on this very unique Resolution. This Resolution has its roots in a similar Resolution that was passed by the great state of Oklahoma early last year. President Bush and Congress passed a similar Joint Resolution this past December. Our own Governor McKernan passed an Executive Proclamation also in December.

This Resolution is very important to me and to the people whom I represent. Given that this is the year of the quincentennial of the voyage of Christopher Columbus, it is important that we recognize the tribal people and their role in these past 500 years.

I do not view this year as a need to look backwards and deplore any or all of the instances that Indian people were deprived. Instead, I would urge all of you to consider this as a step forward, one in which the next 500 years can bring great strides, not only for the aboriginal people of the

Americas, but also every citizen of the United States. Thank you for your support.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative SOCTOMAH: Mr. Speaker, Men and Women of the House: In her native language, Representative Soctomah said, "I would like to thank the 115th Legislature for the honor and special recognition given to the Native Americans in Maine in the year 1992."

Subsequently was adopted in concurrence.

Bill "An Act to Change the Term Secondary Vocational Education to Applied Technology and Adult Learning" (S.P. 888) (L.D. 2281)

Came from the Senate, referred to the Committee on Education and Ordered Printed.

Was referred to the Committee on Education in concurrence.

Bill "An Act to Require Insurance Companies to Honor Assignment of Medical Benefits for Clients of the Department of Human Services" (S.P. 889) (L.D. 2282)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Provide for Periodic Review and Modification of Child Support Orders" (S.P. 893) (L.D. 2293)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act Regarding the Purchase of Spirits at Agency Liquor Stores" (S.P. 890) (L.D. 2283)

Came from the Senate, referred to the Committee on Legal Affairs and Ordered Printed.

Was referred to the Committee on Legal Affairs in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Bill "An Act to Change the Legislative Reporting Requirements of the Mandated Benefits Advisory Commission" (S.P. 810) (L.D. 2009)

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Facilitate Municipal Landfill Closure" (EMERGENCY) (S.P. 860) (L.D. 2184)

Report of the Committee on Marine Resources reporting "Ought Not to Pass" on Bill "An Act Authorizing the Establishment of Fisheries Management Zones" (EMERGENCY) (S.P. 816) (L.D. 2015)

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

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Bill "An Act Concerning Small Business Employer Health Coverage Reforms" (S.P. 654) (L.D. 1721)

Signed:

Senators: KANY of Kennebec
McCORMICK of Kennebec

Representatives: HASTINGS of Fryeburg
MITCHELL of Vassalboro
ERWIN of Rumford
TRACY of Rome
KETOVER of Portland
JOSEPH of Waterville
RAND of Portland
PINEAU of Jay
GARLAND of Bangor
CARLETON of Wells

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Signed:

Senator: BRAUN of Knox

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

On motion of Representative Mitchell of Vassalboro, the House accepted the Majority "Ought Not to Pass" Report in concurrence.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act Concerning Road Kills" (S.P. 130) (L.D. 232)

Signed:

Senators: TWITCHELL of Oxford
PEARSON of Penobscot

Representatives: ROTONDI of Athens

CLARK of Millinocket
TRACY of Rome
PAUL of Sanford
SWAZEY of Bucksport
JACQUES of Waterville
CARROLL of Southwest Harbor
DUFFY of Bangor
FARREN of Cherryfield

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-534) on same Bill.

Signed:

Senator: SUMMERS of Cumberland

Representative: GREENLAW of Standish

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

Representative Rotondi of Athens moved that the House accept the Majority "Ought Not to Pass" Report in concurrence.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: Anytime I vote out a Divided Report, I think I should justify it by a short statement.

The Department of Fisheries and Wildlife at this time are eight to ten people short. On my desk there is another document asking for a 20 percent increase in fees and I cannot see the justification of spending time tagging field mice, red squirrels, gray squirrels etcetera. I have only known one man that picks up road kills to eat (by his claim) and the rest may pick them up (if they choose) to use for making flies and so forth. I think any money or time devoted by the warden service to this project is a waste. There is even a question under the present legislation whether highway workers have a legal right to dispose of them.

Subsequently, the Majority "Ought Not to Pass" Report was accepted in concurrence.

COMMUNICATIONS

The following Communication:

MAINE COUNCIL ON ALCOHOL AND DRUG ABUSE
PREVENTION AND TREATMENT
State House Station 159
Augusta, Maine 04333

February 1, 1992

The Honorable John L. Martin
Speaker of the House of Representatives
State House
Augusta, ME 04333

Dear Speaker Martin:

I am pleased to present the Maine Council on Alcohol

and Drug Abuse Prevention and Treatment's 1992 Annual Report to the Governor, the Legislature, the Judicial Council, and the Director of the Office of Substance Abuse.

The Report is the result of many hours of analysis and discussion by members of the Maine Council. It includes an assessment of the current continuum of alcohol and other drug abuse prevention and treatment services as well as important recommendations for the future.

The Maine Council's description of the extent of the alcohol and other drug abuse problem in Maine, and a discussion of funding issues, are presented on the first few pages. Recommendations to the Legislature, the Executive branch, and the Judicial Council follow, and identify areas on which the Maine Council will continue to focus during the coming year. Appendices contain the reports of five Maine Council Subcommittees: Treatment, Prevention, Education, Legal Issues, and Research and Evaluation.

On behalf of the Maine Council, I hope you find the 1992 Annual Report informative and useful.

Sincerely,

S/Granville V. Henthorne
Chair, Maine Council on Alcohol and
Drug Abuse Prevention and Treatment

Was read and with accompanying report ordered placed on file.

The following Communication: (S.P. 892)

115TH MAINE LEGISLATURE

February 3, 1992

Senator Zachary E. Matthews
Rep. Rita B. Melendy
Chairpersons
Joint Standing Committee on Housing
and Economic Development
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Ford S. Reiche of Cumberland Center for appointment to the Maine State Housing Authority.

Pursuant to Title 30A, MRSA Section 4723, this nomination will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

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 Housing and Economic Development.

Was Read and Referred to the Committee on Housing and Economic Development in concurrence.

Ordered Printed.
Sent up for Concurrence.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

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

Appropriations and Financial Affairs

Bill "An Act to Improve the Effectiveness of the Office of Substance Abuse" (H.P. 1640) (L.D. 2303) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Senator BERUBE of Androscoggin, Representative MAYO of Thomaston and Representative LARRIVEE of Gorham) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Clarify the Definition of Certain Vehicles for Insurance Purposes" (H.P. 1644) (L.D. 2307) (Presented by Representative LARRIVEE of Gorham) (Cosponsored by Representative MITCHELL of Vassalboro, Senator MILLS of Oxford and Senator CLEVELAND of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Joint Select Committee on Corrections

Bill "An Act Concerning Staffing at Correctional Facilities" (H.P. 1639) (L.D. 2302) (Presented by Representative ANTHONY of South Portland) (Cosponsored by Senator GILL of Cumberland and Representative DORE of Auburn) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act Concerning Septage" (EMERGENCY) (H.P. 1638) (L.D. 2301) (Presented by Representative TRACY of Rome) (Cosponsored by Senator KANY of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Tabled and Assigned

Bill "An Act to Ensure Voter Participation in the Siting of Storage and Disposal of Radioactive Waste" (EMERGENCY) (H.P. 1642) (L.D. 2305) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representative HOLT of Bath, Representative MICHAUD of East Millinocket and Senator BALDACCI of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

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

On motion of Representative Jacques of Waterville, tabled pending reference and specially assigned for Tuesday, February 11, 1992.

Energy and Natural Resources

Bill "An Act to Establish the Motor Vehicle Emission Inspection Program" (H.P. 1645) (L.D. 2308) (Presented by Representative MARSH of West Gardiner) (Cosponsored by Representative ADAMS of Portland) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Bill "An Act to Encourage the Wise Use and Management of Maine's Water Resources" (H.P. 1646) (L.D. 2309) (Presented by Representative MORRISON of Bangor) (Cosponsored by Representative AIKMAN of Poland and Senator CLEVELAND of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Prohibit the State from Entering into Residential Treatment Facility Contracts That Give Preference to Former Patients of State Mental Health Institutes" (H.P. 1637) (L.D. 2300) (Presented by Representative DORE of Auburn) (Cosponsored by Representative HOGGLUND of Portland, Senator GILL of Cumberland, and Representative CLARK of Brunswick) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act Prohibiting Persons Convicted of Operating under the Influence from Operating School

Buses" (H.P. 1641) (L.D. 2304) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Representative NORTON of Winthrop) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Ensure the Availability of Ferry Service in Casco Bay" (EMERGENCY) (H.P. 1643) (L.D. 2306) (Presented by Representative RAND of Portland) (Cosponsored by Senator RICH of Cumberland, Representative ADAMS of Portland and Representative BUTLAND of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

ORDERS

On motion of Representative HICHBORN of Howland, the following Order:

ORDERED, that Representative Joseph G. Carleton, Jr., of Wells be excused January 28 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative John F. Marsh of West Gardiner be excused February 3 for legislative business.

Was read and passed.

On motion of Representative MAYO of Thomaston, the following Joint Order: (H.P. 1636)

Ordered, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill, "An Act Making Supplemental Appropriations for Fiscal Year 1991-92" to the House; and be it further

Ordered, that when the Joint Standing Committee on Appropriations and Financial Affairs reports out "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of the Laws," H.P. 1547, L.D. 2185, and all its accompanying papers, that this Act contain no further supplemental appropriations for fiscal year 1991-92.

Was read.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: I would like to pose a question on this Order but I would like to make a few comments

first since this was just brought to my attention about a half hour ago.

I am a little confused about the need for this. As has been stated publicly, over and over, we plan to adjourn before the end of March and it seems to me to be a little suspect that we have this tremendous need right now to separate out an emergency FY92 budget, thereby, creating a non-emergency budget for FY93. I guess if one were cynical, it would appear to be a political ploy to remove the emergency clause from the budget which is now being considered by the Appropriations Committee. As you all know, we have been out on the road listening to testimony about the budget for the past three days and have not yet begun to work in committee.

I would like to read for you what the effect of this Order would be. It would create a separate supplemental budget for FY92, which includes about \$25 million. On that list would be Maine Emergency Management for about two-thirds of a million dollars; some taxation agents; DHS needs for over \$11 million dollars including over \$3 million for General Assistance and Medicaid; some bond payments for the judicial system; almost \$6 million for Mental Health and Mental Retardation and it is a sizeable amount of money.

My question that I would like to pose through the Chair would be, how are we going to pay for this '92 supplemental budget without a review of the entire cutting package? I would like to ask the sponsor of this Order if he plans to cut FY92 further to pay for this \$25 million dollars in emergency needs?

The SPEAKER: The Representative from Yarmouth, Representative Foss, has posed a series of questions through the Chair to the sponsor who may respond if he so desires.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative Mayo: Mr. Speaker, Ladies and Gentlemen of the House: Representative Foss has asked two good questions and I will attempt to answer them as best I can but I am not a member of the Appropriations Committee and I am not intending to dictate to the Appropriations Committee how this bill will work. I am only trying to facilitate a process.

First of all, I have no preconceived notion of how it will be paid for but there are some \$167 million dollars worth of budget changes that are in the budget the Governor submitted to us and I would assume that we could pluck from that those that have unanimous agreement in committee and take care of the emergency spending needs that are before us.

Do I intend to make further cuts in FY92 — if there are further cuts that can be identified by the committee and are appropriate, I certainly will support those.

I think I would like to respond to the good Representative's comments to clarify my reasoning for doing this. She cast a partisan political tone over this Order and I want to make it clear that that is not my intention. I also would like to point out that I made this Order available or informed the Minority Leadership of this Order this morning when we met at nine o'clock. I am sorry and surprised that the Representative just found out about it a half hour ago. It was on the Calendar when the Calendar was released last night — I made sure it was on the Calendar and not on a Supplement so people would have advanced warning to see it and I apologize if the Representative did not see it.

I did not submit this Order for any particular partisan reason. I have been here, like all of you, now for just over a year and we have wrangled with so many budgets that I have lost count. I think one of the problems we have with the budget process and why we need to try to modify it slightly in this way is that we can't get our hands around a big bohemian budget document. It is so difficult to try to put everything together and build the consensus necessary to get it passed so I, in consultation with other members of the Appropriations Committee and discussing it with the staff of the committee, I thought it would be appropriate for us to take out from that budget document parts of it that there was unanimous agreement on. Certainly we have some spending needs that the state needs to take care of between now and June and it needs to be done right away.

I know that Representative Larrivee has brought a bill to this body for the Emergency Management Agency because there are towns that need to get the federal reimbursement money and they are waiting for that. Interest is accruing and the federal government will not reimburse for interest so we need to make that available to them anyway. This bill would make Representative Larrivee's bill unnecessary and it was my hope that we would accomplish all of our emergency spending bills in one bill as opposed to doing them piecemeal. Representative Larrivee was being an excellent Representative for her town bringing that bill forward and I am trying to facilitate that process as well. It is not done in any partisan, cynical way as was suggested by the good Representative from Yarmouth. It was done to try to facilitate this process, move us off dead center and try to accomplish incrementally what we have ahead of us. It is not going to be an easy task, this budget has got more problems with it than I wanted to see and I think, if we try to do it incrementally, it will not only relieve the burden on the staff of the Appropriations Committee but it will relieve the burden of this House.

I would urge you to adopt this Order.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I am a little sensitive this afternoon to the term incremental because our committee was just criticized less than an hour ago for approaching the budget on an incremental level. I would suggest that it is poor fiscal policy to separate these two fiscal years. I would remind you again that we are intending to have a budget which would serve both fiscal years before the end of March. This is much too premature and I would hope that you would vote against this Order. I request the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I don't consider it premature to try to deal with the emergency spending needs of the various agencies in state government right now. The example I pointed out of the towns and cities in this state who had natural disasters that occurred, the money has run out in the Emergency Management account, we need to replenish that account and we need to do it now because interest is starting to accrue. We will not get reimbursed for interest and I don't think it is

appropriate to wait to the end of the session to use the same tired old way of trying to pass a budget that failed us before. We need new approaches to solve the problems that we face and this is my earnest attempt to try to bring a new approach to this process. You can reject it if you want to but I urge you to support this as a good faith attempt to try to get a hand around this budget to get it solved.

I am sorry the committee was criticized for doing something incrementally, I happen to think if you can take small steps and reach a goal faster than taking one big step, you haven't done anything wrong.

Representative Foss of Yarmouth was granted permission to speak a third time.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind this body that in December we had a debate about funding the FY92 supplemental appropriations and I believe the prior speaker mentioned then that we should put that off until we did the FY92-93 budget. Some of us argued to do those supplemental appropriations then and the majority will was to delay it until now until we had the big picture. I would suggest again that this is just an attempt to take the emergency off so that there will be a majority budget and I think that is wrong timing when our committee is just beginning to work. These needs will have to be funded by cuts elsewhere.

I urge your opposition.

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 of Joint Order (H.P. 1636). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 291

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Coles, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hognlund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Saint Onge, Sheltra, Simonds, Simpson, Stevens, P.; Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Lebowitz, Lipman, Look, Lord, MacBride, Marsano, Merrill, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Richards, Salisbury, Savage, Small, Spear, Stevenson, Tupper, Whitcomb.

ABSENT - Bailey, H.; Clark, M.; Constantine, Graham, Kutasi, Libby, Marsh, Michael, Reed, W.; Ruhlin, Rydell, Skoglund, Stevens, A.; Vigue.
 Yes, 91; No, 46; Absent, 14; Paired, 0; Excused, 0.

91 having voted in the affirmative and 46 in the negative with 14 being absent, the Joint Order was passed and sent up for concurrence.

On motion of Representative KILKELLY of Wiscasset, the following Joint Order: (H.P. 1647)

Ordered, the Senate concurring, that Bill, "An Act to Amend and Improve the Laws Relating to Education," S.P. 469, L.D. 1252, and all its accompanying papers, be recalled from the legislative files to the House.

Was read.

A two-thirds vote being necessary, a total was taken. 101 having voted in the affirmative and none in the negative, the Joint Order was passed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative BOUTILIER from the Committee on **Transportation** on Bill "An Act Concerning Highway Traffic Laws" (H.P. 1430) (L.D. 2042) reporting "**Ought Not to Pass**"

Representative CLARK from the Committee on **Utilities** on Bill "An Act Concerning the Norridgewock Water District" (EMERGENCY) (H.P. 1481) (L.D. 2093) reporting "**Ought Not to Pass**"

Representative JACQUES from the Committee on **Energy and Natural Resources** on Bill "An Act to Establish Current Drinking Water Standards for Environmental Protection" (H.P. 1572) (L.D. 2219) reporting "**Ought Not to Pass**"

Representative GOULD from the Committee on **Energy and Natural Resources** on Bill "An Act Regarding Fees Collected by the Allagash Wilderness Waterway" (H.P. 1538) (L.D. 2171) reporting "**Ought Not to Pass**"

Representative TARDY from the Committee on **Agriculture** on Bill "An Act Concerning the Management of the Potato Marketing Improvement Fund" (H.P. 1454) (L.D. 2066) reporting "**Ought Not to Pass**" (Representative PINES of Limestone - of the House - Abstained)

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

Refer to the Committee on Labor - Pursuant to Joint Order (H.P. 1508)

Representative CHONKO from the Committee on **Appropriations and Financial Affairs** on Bill "An Act to Abolish the Second Injury Fund and the Employment Rehabilitation Fund" (EMERGENCY) (H.P. 1648) (L.D. 2310) reporting that it be referred to the Committee on **Labor** - pursuant to Joint Order (H.P. 1508).

Report was read and accepted and the bill referred to the Committee on **Labor** and sent up for concurrence.

Ought to Pass as Amended

Representative TARDY from the Committee on **Agriculture** on Bill "An Act to Replace Criminal Penalties with Civil Penalties for Violations of Weights and Measures Laws" (H.P. 1483) (L.D. 2095) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-893)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-893) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, February 11, 1992.

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-883) on Bill "An Act to Provide Equitable Insurance Coverage for Mental Illness" (H.P. 1064) (L.D. 1553)

Signed:

Senators: KANY of Kennebec
 BRAUN of Knox
 McCORMICK of Kennebec

Representatives: MITCHELL of Vassalboro
 ERWIN of Rumford
 TRACY of Rome
 KETOVER of Portland
 JOSEPH of Waterville
 RAND of Portland
 PINEAU of Jay

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

Signed:

Representatives: HASTINGS of Fryeburg
 GARLAND of Bangor
 CARLETON of Wells

Reports were read.

Representative Mitchell of Vassalboro moved that the House accept the Majority "Ought to Pass" Report. The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Garland. Representative GARLAND: Mr. Speaker, Members of the House: What this legislation does is increase

the required coverage level on mental illness. This mandate is already the most expensive one and this expansion will dramatically increase the cost.

Passage of this bill will threaten the affordability of health insurance for the people of Maine. One does not have to be an actuary to realize that increasing the reimbursement level from 50 percent to 80 percent and removing all the caps will force the cost of health insurance up. As this mandate drives the cost of insurance up, some businesses, individuals and families will no longer be able to afford coverage.

The fiscal impact of this bill is also prohibitively expensive. With moderate usage, this will cost the state well over \$1.5 million dollars.

I urge the House to vote against this mandate.

Mr. Speaker, I request a Division.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I invite you to take a moment in this very busy day to consider perhaps one of the most important bills you are going to be looking at this session. I think it is very important that we not put our blinders on, that we look at the essence of this bill. Probably everyone of you in this room either has a family member or knows someone well who has been touched by the ravages of mental disease.

I invite you to take out the bill because it is important. I don't want us to get lost in rhetoric and hollering about mandates and this, that and the other. I want you to understand what you are voting on because I am confident that if you do that you will vote for this piece of legislation.

This is L.D. 1553. It was very carefully crafted to say that, if a person was suffering from an organic brain disease, and they are listed on the second page of the bill, schizophrenia and it goes right down through the list, it is a disease of the body just as is cancer of the liver. Somewhere in our convoluted journeys to making sure that people had coverage, we said, if your disease affects the mind rather than your liver, you don't get the same insurance coverage.

Maine already requires that, in group policies for those groups larger than 20, that there be coverage for mental illness but what we required was that you didn't get the same coverage if you were unfortunate enough to have a disease of the brain as opposed to a disease of the liver that says they will be treated the same. No one asks to have cancer, no one asks to have a disease of the brain.

Let me back you up just a moment on mandates — maybe in the busy Calendar, you haven't noticed how many unanimous "Ought Not to Pass" Reports have been coming out of the Banking and Insurance Committee concerning new mandates — quite a few. The State Legislature set up a process called The Mandated Benefits Advisory Commission. Every mandate for new health coverage or expanded health coverage was sent over to this group, which is made up of providers and people who receive health services and legislators. It is certainly bipartisan.

When the issue arrives as a mandated benefit to the Advisory Commission, in your statute there is a whole series of questions that this commission must consider, the social impact, the cost, who this serves and whether or not it is an important mandated benefit. This bill came to us last year, went over

to the commission, it came back with the one report for an expanded benefit "Ought to Pass."

The other thing I would like to remind you of, because I think it is so very important, is that the State of Maine, way back in 1983, made this decision and the legislature wrote into its statutes (and please listen) that mental illness affects nearly 170,000 Maine people each year, resulting in anguish, grief, desperation, fear, isolation and a sense of hopelessness of significant levels among victims and their families. We wrote into the statutes that it is the policy of this state and I quote, "to promote equitable and non-discriminatory health coverage benefits for all forms of illness, including mental disorders." That's what this legislation will do.

Now the concern has been raised about costs and we all know enough about dualing actuaries to know that costs are pretty hard to come by. We have studies from Cooper's and Lybrand who studied the systems in California, they have looked at Minnesota and we have our own Blue Cross & Blue Shield; obviously, there is some increased cost. If you look at it this way, it stops some of the cost-shifting because when people run out of money, which they do very, very quickly with artificial caps and only partial coverage, they come to the state. A study by the National Conference of State Legislatures (and this was back in 1987 and I submit to you that it is worse now) shows that states pay 50 percent of the costs associated with mental health care while the insurance industry only pays 12 percent. Isn't it time that we truly made insurance equitable? That's all this bill does, it is not a new mandate, it says that the coverage that your policy has now for mental health coverage will be identical to that that is offered to you if you are unfortunate enough to have cancer or any other physical disease.

I urge your support for the "Ought to Pass" Report.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of this bill because it took us a long time to think about this bill. It was a bill that hit a lot of us deep in our hearts because we heard testimony that would shock you. It shocked us because we heard of discrimination, something that I don't ever approve of.

One lady came before us, a mother who had a son with a mental illness. Understand that there is a lifetime cap on this of \$25,000 and once you use that up per family, it is gone. What happened was this lady used the \$25,000 cap and it was gone. The sad part of it was that her son committed suicide. "This is a biological problem," she told us. Her daughter became mentally ill and what happened was, there was no money left, there was nothing for this mother and her daughter so what she had to do was humble herself, impoverish herself and let her child become a ward of the state. She had no coverage, she had no money, this is the worst discrimination of all.

I don't know if some of you ever heard of a hospital called Portland City Hospital. It is now called the Barron Center in Portland. As a young girl I worked there, it wasn't a psychiatric ward then, it was for the elderly. I went down into the ward where they kept the mentally ill patients and I was shocked. What I saw was souls like prisoners, bars on the doors, bars on the windows — some were

chained because these people were considered crazy. You know, when people had mental illness in those days, nobody ever wanted to talk about it. It was a disease we shoved in the closet and we said, we will take care of it, it will go away, we will discuss this and it won't happen. Those people were considered to be something — remember the books when you studied about the wild beasts — well, that's what they were. They were crazy people and we hid them away. That's what that was like. They had tons of people in these wards that were crazy people. Ladies and gentlemen, this is a biological disease, a bipolar disease. Schizophrenic — we also lifted those diseases in our legislation.

I am going to tell you something that was really interesting — as we talked amongst ourselves, we found out that every single person has been touched by some form of a mental illness. My good chair gave you a lot of the descriptive part of what this bill will do so I will not repeat that because she is 100 percent correct. We found out that everyone has been touched by a mental illness. If I asked every one of you if you knew someone who had cancer, I bet the answer would be yes, someone I know dear and near has died of cancer. Or yes, I have a friend who has cancer or yes I have a friend who has diabetes or maybe you have diabetes — should I look upon you as somebody who should not get medical coverage? That is why I said that this a very important piece of legislation today because when these people go in, they have a lifetime pass, which you do not have on your other medical insurance. They only get 50 percent of the coverage so they will have to pay the other 50 percent out of pocket. Some of those costs are phenomenal. Many families cannot afford \$500 or \$600 a day. It is very hard to send your child to a mental hospital, I think it would be pretty hard.

We were reading about this survey and I thought, gee, that's a small amount of money, 46 cents monthly premium per person — that is what a study showed us. I think a doctor who came before our committee mentioned that about the Cooper's and Lybrand study in California and the cost was 46 cents in monthly premiums per person with unlimited coverage for these conditions, the cost of 78 cents estimated and the point that they were covered for many years.

I talk to a lot of people all over the United States now and I was telling Representative Mitchell about this in committee. I was talking to some friends of hers down in North Carolina and I told them about this bill because I thought it was so interesting and they couldn't believe it. They said, "Are you kidding? We pay 80 percent here, I thought everybody did." I said, "No, we are trying to do that. We have a piece of legislation which I think is probably one of the most important pieces of legislation we will have this year."

I could go on but I guess I will let other speak because there is much to tell you about this piece of legislation. Utilization is something that we need to look at. All Maine hospitals are required as a condition of their state license to have an active in-house utilization review. That will help a lot because that utilization review criteria is based on guidelines developed by our insurance companies, Medicaid and Medicare and the American Psychiatric Association. Such managed care, which is a thing of the future by the way, is probably the way we are going to have to look at our health care policies today so I am going to sit down now and I am going to

let you think about this bill because, as I said before, I hope you will support this. I am sure you will hear more good testimony on this and please remember, we don't want to discriminate against anyone in our country. This is a free world and I hope we allow people to be able to have freedom of health care.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

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

I am just briefly familiar with some of these terms such as schizophrenia, bipolar disorder, major depressive disorder and a number of others through my practice of law in doing child protective work and sometimes in divorces where people need counseling or in a criminal setting where people are diagnosed as having a character disorder, which sometimes is indicated as being untreatable. Perhaps that could fall into the category of major depressive disorder. My question is, am I correct in the fact that these are somewhat nebulous diagnostic terms that would lead to a considerable amount of litigation if I disagree that somebody is suffering from a major depressive disorder or schizophrenia? I don't believe these are concrete diagnoses except autism which I believe is. Panic disorder I believe is, but perhaps there are other reasons for these types of incidences that aren't included here that may be included under the coverage. I don't know if that is clear but my question is that I am not really sure that these are concrete diagnostic terms.

The SPEAKER: The Representative from Hampden, Representative Richards, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I am the prime sponsor of this legislation so Representative Richards I feel that it is appropriate that I answer those questions for you.

There may be litigation about whether or not someone is schizophrenic because there can be litigation about anything anyone decides to go to court about. In terms of medical diagnosis, the litigation would be very short-lived because virtually all of these diseases are physical in nature and are physically documentable and not disputable. It was discussed in committee about whether you could boot up to one of these diseases so that your coverage would go from the 50 percent to the 80 percent and I would submit to you that no one would voluntarily label themselves schizophrenic because they had a sad episode in their life that left them hospitalized. It just simply wouldn't be worth it. Even if they wanted to, there is a magnetic imaging process of the brain that one goes through which identifies schizophrenia by coloration in the brain. In fact, you can identify a bipolar by coloration in the brain and you can identify an average person by coloration in the brain and it will look different than a person who is depressed, to have the biological illness, major depressive disorder is different than to be depressed. It is medically provable by a set of criteria. You sort of prove AIDS by a series of things that are wrong with you but there wasn't a pure AIDS test, it is sort of a series of things and these are similar to that

except, because of the Magnetic Imaging, a lot of these brain diseases you can document specifically what they are, plus you can document what they are by the response to pharmacological treatment, how different brain diseases are treated differently.

I want you to know primarily why I sponsored this. It is because the discrimination issue is very important to me. These are physical diseases. They are called mental health and they are covered under mental health because years ago, when we said we were going to cover mental health, we didn't have a way to distinguish them with clarity, medically, technologically. We do now.

My categories may not be perfectly neat in that two of them can be subsumed under two others. Childhood schizophrenia is subsumed under schizophrenia, you don't have to list it separately but in fact they are conclusively what they are and there is no disputing. A bipolar, which used to be called manic depressive is conclusively a bipolar, it isn't a bipolar person because of circumstances in their life, it is by birth. There aren't any set of circumstances in your life that can make you bipolar and there aren't any set of circumstances in your life that can make you not bipolar. Now, that is not my position, that is the position of the American Medical Association and the American Psychiatric Association so I don't anyone to be under the impression that I am giving an opinion as a lay person. I am giving you the opinion of the medical organizations.

It is also the opinion of several courts in this country, where people have taken insurance companies to court, typically families of schizophrenic children because that is a mental illness that shows up during teenage years and they have reached their maximum that we have discussed, and they have gone to court and said the insurance company has discriminated because this is a physical illness and they have won. They have won in Oregon, Texas and if you want to give me a few minutes, I can give you other states. All I am trying to do is say that these are not mental health issues, this is not marriage counseling, this is not bereavement therapy, these are not conditions in your life, choices that you made to give you these illnesses, these are physically, diagnosable illnesses. They are largely treated as outpatients, incidentally, and largely treated with chemistry, very little therapy treatment.

I am like all of the other things you see in mental health class and that is why later we will talk, if we need to, about whether the fiscal note is accurate because our mental health fiscal note comes from the mental health usage we have. Probably 95 percent of mental health usage is not for biological illness, it is for mental health — choices in your life, sad occasions, whatever, — therapy, it is the therapy. Most of the people with these diseases don't get therapy, they get pharmacological treatment.

I hope that has cleared up any questions you had. If you have others, I would be happy to answer them.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I empathize with the bill but still I guess what is unsettling to me, and I agree with what you have to say about schizophrenia and bipolar disorder because I have represented parents that have been diagnosed as such and that

seems to be a little more concrete; however, it is still a diagnosis that can be argued to be something other than schizophrenia or bipolar.

Obsessive compulsive disorder — that seems to be something that is extremely broad. If you have a clinical psychologist analyzing a family in a child protective setting, I can guarantee you that they would come out with a obsessive compulsive disorder that would be to any degree. In fact, you might say that that is a diagnosis that you can hinge (to some degree) on everybody in society, even people in this legislature, given a particular type of problem or issue of how they conduct their life and their life-style. The role is counseling especially in a dysfunctional family dealing with marriages breaking up. I mean perfectionists are obsessive and that is a disorder. Maybe I should perhaps be corrected but you are looking at a diagnosis that gives great latitude for a clinical psychologist or a psychiatrist to diagnose and provide medication as well as a major depressive disorder. People with character disorders in our criminal society that are convicted are untreatable because of a character disorder and that may be as a result of depression because things in their lives will never change.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly, one can behave obsessively without having obsessive compulsive disorder. Everybody hears stories about people who have panic attacks. That is not the same thing as a panic disorder and I think that is the problem. Some of the same words are used for different diagnoses but they are clearly different. An obsessive compulsive disorder and a panic disorder is different in terms of severity, it is different in terms of the root cause. One has a psychological root cause, events in your life, sad occasions, a trauma; the other has a physical root cause and they really do distinguish between the two. It is really clear and it is not, according to the American Medical Association, disputable. According to the Bar Association, maybe it is disputable, although I would argue that these court cases that have been decided in other states would indicate that it is not very disputable when it gets down to the judges.

Finally, I would like to bring up one last point and that is that you all have a letter on your desks from Dr. Jacobsohn, who is the medical director for the state's hospitals. Something we haven't discussed yet is that all of these patients with chronic mental illness, because of these caps, end up on Medicaid. They end up being paid for by taxpayer dollars. Even if they are working functional people, if they have enough episodes of the illness, they will reach the cap, they will have to go onto Medicaid and we will have to pick up the tab. I would like you to read the memo from Dr. Jacobsohn if you have an opportunity to and consider that this is going to lower the state's cost because we pay for these patients because the cap is so low. The cap is so low because the illness manifests itself in behavior because it is a brain disease. If the illness manifests itself in losing your left foot, if your left foot just fell off from this illness, we would never treat it economically and punitively the way we now allow insurance companies to do.

Thank you for your time and I hope you can support this bill.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Vassalboro, Representative Mitchell, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 32 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-883) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, February 11, 1992.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-888) on Bill "An Act to Protect Telephone Customer Privacy" (H.P. 1118) (L.D. 1643)

Signed:

Senators: VOSE of Washington
CLEVELAND of Androscoggin

Representatives: LUTHER of Mexico
ADAMS of Portland
HOLT of Bath
MORRISON of Bangor
CLARK of Millinocket
KONTOS of Windham

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

Signed:

Senator: CARPENTER of York

Representatives: MERRILL of Dover-Foxcroft
AIKMAN of Poland
DONNELLY of Presque Isle
LIPMAN of Augusta

Reports were read.

Representative Clark of Millinocket moved that the House accept the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and specially assigned for Tuesday, February 11, 1992.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Open Teacher-employer Bargaining to the Public" (H.P. 1132) (L.D. 1657)

Signed:

Senators: CONLEY of Cumberland
ESTY of Cumberland
CARPENTER of York

Representatives: ST. ONGE of Greene
McKEEN of Windham
McHENRY of Madawaska
RAND of Portland
RUHLIN of Brewer
PINEAU of Jay

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-887) on same Bill.

Signed:

Representatives: LIPMAN of Augusta
BENNETT of Norway
HASTINGS of Fryeburg
AIKMAN of Poland

Reports were read.

Representative McHenry of Madawaska moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Tuesday, February 11, 1992.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Encourage Family Unity" (H.P. 127) (L.D. 172)

Signed:

Senators: CARPENTER of York
ESTY of Cumberland

Representatives: AIKMAN of Poland
HASTINGS of Fryeburg
ST. ONGE of Greene
McKEEN of Windham
RAND of Portland
BENNETT of Norway
RUHLIN of Brewer

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-886) on same Bill.

Signed:

Representatives: McHENRY of Madawaska
PINEAU of Jay

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry. Representative McHENRY: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report. Mr. Speaker, Ladies and Gentlemen of the House:

I realize that this bill may not go very far but I want to bring to your attention that the economy of this state as well as the nation has gone right down the tubes and it is not improving as far as I can see.

I am not an economist but I think the reason we are in such a position is because, back when President Reagan, you know the voodoo economics that Bush alluded to when he was opposing Reagan, but then when he became President, he took on the same thing and that is, Reagan replaced the Air Controllers of the United States because they had gone on strike. Ever since then, car manufacturers have had concessions with their employees and it has gone all the way down. The employers have been asking for concessions — give, give, give — to us. It is like a pendulum. This pendulum that we have in the United States does not seem to want to stop one way or the other. There is greed on either side. I have seen greed by labor and I have seen greed by the manufacturers. Today the corporate greed is killing the United States of America and that is why I have proposed this bill of family unity. I call it the family unity and people say, why in heaven's name do you call that bill family unity? Do you want to pay people double time for working on Sunday? Well, working on Sunday in the paper industry came about because the paper industry said to the employees, if you wish to come in on Sunday, it would help us tremendously and we would be willing to pay you double time to work on Sunday. The employees did not ask to work on Sunday, the employers requested that we work on Sunday. Then down the road, as of 8 years ago, the employers said, you have to work on Sunday, just like any other day, and you will be paid straight time. Ladies and gentlemen, that is not bargaining, we no longer have bargaining in the State of Maine so that is why, if we can't bargain, we will legislate.

I realize if we were not in such economic hard times, I think I could gather a lot more support but seeing that we are in such hard times, it is hard for people to vote to give to people double time on Sunday. Do you realize if you were to go to Jay, Maine, you would soon find out and (or any municipality where they have a paper industry and they have taken away double time on Sunday) ask those small and medium-sized businesses what happened to their economy. They have gone right down. Most of them are closing and it is not because of Workers' Comp, it is because people are no longer buying. Ten years ago, I could ask any of my fellow employees, "Are you going to be working here next year or the year after or five years down the road?" They would say, "Sure, I intend to retire here." But, if I ask my fellow employees today, "Will you be working here next year." They say, "I don't know if I am going to be working here tomorrow. I don't know if I have a job tomorrow." That is what they tell me. That's where we are at.

If you think (by some miracle) the federal government is going to come up with a way of having these people go out and spend money to revive the economy, you are dreaming. There is no way that you can ever build the trust of the working people where they can depend on their job tomorrow, where they can know they will be having money coming in, where they can go out and spend money — I don't know how it is going to be done. I can't think of any way.

When I.P. came before my committee against the strikebreaker bill, I told the President of the I.P.

Corporation, who came from out of state and opposed the bill that I was proposing, I told him, like I said to you people, I am not an economist but the economy is like a wheel, a bicycle wheel for instance, you start slacking off a few spokes (like the airline controllers) and then you slack off a few more spokes (like the auto workers and the paper workers) the next thing you know, this wheel is wobbling all over the place and it is going to fall down. What goes around comes around. I told the President that his day would come and I think that day is here. That was five years ago and that is the reason I am proposing this bill, that the people should be paying double time on Sunday so we can pump some money into the economy. This is a bill to help the economy, not to hurt the economy. When we took that double time on Sunday, we put it out into the State of Maine. This money the people were receiving was being spent in Maine and now the corporate executives are receiving that money. It isn't us, it isn't the State of Maine. It is no longer tax money for the State of Maine. We have lost a lot of money. This is only one instance. There are a lot of instances where people have given concession after concession. These concessions are not interpreted into dollars that are spent in our economy, especially the economy of the State of Maine.

We like to harp on Workers' Comp — well, I want to harp on what I feel is truly the economy of the state — if we don't put money in the pocket of the working men and women of this state, we are going to be in trouble.

I called this bill family unity for the simple reason that when I was a young man, I would go out walking with my Mom and Dad. We would walk to my grandmother's every Sunday, which was a mile and a half across the river into Canada. We would walk even in the wintertime. We were a family and when my Dad was forced to work on Sunday, he refused. He didn't work on Sunday. He was old enough that he did not work on Sunday, he was one of those people who just did not believe in working on Sunday. I do work on Sunday and I am not saying that I am right. When I was a young man, I looked around me and I would see one person per family working. Today you look around, you see the wife, the husband and the children working and you see the government taking all their money, raking in the money, they encourage it because you need two and three people working in a household to survive today. A person who tries to work alone to survive cannot make it. We are greedy, we want more, we want more and that is why we are where we are at.

People aren't satisfied with surviving a decent life. Today one person alone cannot work and send his children to college, it is just not possible but we are geared to send our kids to college. We send them to college — what for? They go out of the State of Maine because they don't have any jobs in the state.

I hope you can support this bill. I have no interest in my community as far as double time on Sunday because they never took it away from us. We did make a lot of concessions though. We went five years without a raise but there are some communities where they have removed the double time and I see the trend is going to stop because there are companies now that are going back and giving their employees that double time. My employer, as well as Representative Pineau's employer, did not take out

the double time and they are making money. How come? Those who took the double time away from their employees are losing their shirts and there is a reason for it because when you have people who are not satisfied and cannot survive and their community is dying, it hurts and it hurts all around.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill requires any manufacturing company with more than 250 employees to pay double time to those assigned to work a Sunday shift as part of their regular work week. This is not a request to pay double time when the employee has already put in a full 40 hour work week. This applies to those for whom Sunday is a regular work day. Shall we also tell those who work in restaurants, theaters, grocery stores, gas stations, and all the other many businesses open on Sunday that they too must pay double time for their employees scheduled to work on Sundays?

If we open the door to this one, we will have a hard time defending our reasons for not being consistent with other types of business. This is not the time to increase business costs, particularly Maine manufacturers during these difficult economic times.

The only way I see that this encourages family unity is because people who have lost their jobs tend to stay home more.

L.D. 172 would contribute to the diminishing number of jobs available in Maine by making our business climate even worse than it is already. We are driving businesses away and manufacturing companies that may consider locating a plant in Maine will most certainly think twice when they learn that they will need to pay double time on Sundays. Think about it, can we afford to drive anymore businesses away?

What about existing businesses who find that a Sunday shift is necessary to keep up with demand? What will they do? It seems fairly likely that they will put more people on weekday shifts, possibly more people than a given work area was designated to accommodate. Do we want to give some workers an advantage at the expense of others?

I urge you to defeat the Minority Report so we can go ahead and support the Majority Report. I request 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 pending question before the House is the motion of Representative McHenry of Madawaska that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 292

YEA - Adams, Aliberti, Anthony, Cashman, Cathcart, Chonko, Clark, H.; DiPietro, Erwin, Gean, Goodridge, Heeschen, Holt, Lemke, Luther, Macomber, Mahany, Martin, H.; McHenry, Michaud, Mitchell, J.;

Oliver, Paradis, P.; Pfeiffer, Pineau, Powers, Richardson, Simpson, Tracy, Treat, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Bowers, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Coles, Constantine, Cote, Crowley, Daggett, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Farnsworth, Farnum, Farren, Foss, Garland, Gould, R. A.; Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heino, Hepburn, Hichborn, Hichens, Hoglund, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Manning, Marsano, Marsh, Mayo, McKeen, Melendy, Merrill, Michael, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Ott, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Poulin, Pouliot, Rand, Reed, G.; Reed, W.; Richards, Ricker, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tannaro, Tardy, Townsend, Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Clark, M.; Graham, Rotondi, Rydell, Skoglund, The Speaker.

Yes, 31; No, 114; Absent, 6; Paired, 0; Excused, 0.

31 having voted in the affirmative and 114 in the negative with 6 being absent, the motion did not prevail.

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

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

Divided Report

Tabled and Assigned

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Promote Motor Vehicle Fuel Efficiency" (H.P. 1168) (L.D. 1709)

Signed:

Senators: BOST of Penobscot
COLLINS of Aroostook
ESTY of Cumberland

Representatives: CASHMAN of Old Town
NADEAU of Saco
MURPHY of Berwick
DORE of Auburn
TARDY of Palmyra
DUFFY of Bangor
DiPIETRO of South Portland
BUTLAND of Cumberland

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-885) on same Bill.

Signed:

Representatives: MAHANY of Easton
HEPBURN of Skowhegan

Reports were read.

Representative Cashman of Old Town moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Tuesday, February 11, 1992.

CONSENT CALENDAR

First Day

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

(H.P. 1054) (L.D. 1543) Bill "An Act to Penalize the Department of Human Services for Failing to Make Prompt Child Support Payments to Obligees" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-892)

There being no objections, the above item was ordered to appear on the Consent Calendar of Tuesday, February 11, 1992, under the listing of Second Day.

(H.P. 1589) (L.D. 2243) Bill "An Act to Clarify the Zoning Provisions Administered by the Maine Land Use Regulation Commission" (EMERGENCY) Committee on **Energy and Natural Resources** reporting "Ought to Pass"

On motion of Representative Jacques of Waterville, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the bill read once and assigned for second reading Tuesday, February 11, 1992.

(H.P. 1588) (L.D. 2242) Bill "An Act to Clarify the Subdivision Definition under Maine Land Use Regulation Commission Laws" Committee on **Energy and Natural Resources** reporting "Ought to Pass"

(S.P. 590) (L.D. 1562) Bill "An Act Providing Nursing and Boarding Home Residents with a Right of Action for Violations of Their Resident Rights" Committee on **Human Resources** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-532)

(S.P. 807) (L.D. 2006) Bill "An Act to Extend the Reporting Date of the Commission to Study the Retirement Benefits Provided by the State" (EMERGENCY) Committee on **State and Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-531)

(H.P. 1441) (L.D. 2053) Bill "An Act to Achieve

Parity between the Authority of Loan Officers of State-chartered Credit Unions and the Authority of Loan Officers of Federally Chartered Credit Unions" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-896)

(H.P. 1410) (L.D. 2022) Bill "An Act to Clarify the Laws Related to Credit Cards" Committee on **Banking and Insurance** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-895)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, February 11, 1992, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 742) (L.D. 1937) Bill "An Act to Amend the Disability Laws Applicable to Members of the Maine Judicial Retirement System" (C. "A" S-529)

(S.P. 794) (L.D. 1993) Resolve, That the Reporting Deadline for the Commission on Comprehensive Energy Planning Be Extended (EMERGENCY) (C. "A" S-530)

(H.P. 1420) (L.D. 2032) Bill "An Act to Repeal the Provisions of the Uniform Commercial Code Relating to Bulk Transfers"

(H.P. 1448) (L.D. 2060) Bill "An Act to Establish Ambient Air Quality Standards for Toluene and Perchloroethylene" (C. "A" H-882)

(H.P. 1521) (L.D. 2146) Bill "An Act to Institute Conformity to the Low-cost Drug Program"

(H.P. 620) (L.D. 890) Bill "An Act to Require the Department of Human Services to Have a Regular Presence in Every County of the State" (C. "A" H-884)

(H.P. 1135) (L.D. 1660) Bill "An Act to Establish the Electric Facilities Siting Council" (C. "A" H-889)

(H.P. 1435) (L.D. 2047) Bill "An Act to Extend the Deadline for Closure of Municipal Landfills by 18 Months" (EMERGENCY) (C. "A" H-890)

(H.P. 1427) (L.D. 2039) Bill "An Act to Clarify the Status of Wood Yard Debris" (C. "A" H-891)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Safeguard Money Held for Minors" (H.P. 1172) (L.D. 1713) (C. "A" H-876)

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

Representative Paradis of Augusta offered House Amendment "A" (H-894) and moved its adoption.

House Amendment "A" (H-894) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-876) and House Amendment "A" (H-894) and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Regulate Incineration Plants" (H.P. 1059) (L.D. 1548) (C. "A" H-879)

Were reported by the Committee on Bills in the **Second Reading**, read the second time, Passed to be Engrossed as Amended and sent up for concurrence.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (8) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "A" (H-875) - Committee on **Judiciary** on Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Liability Actions" (H.P. 253) (L.D. 344)

TABLED - February 4, 1992 by Representative PARADIS of Augusta.

PENDING - Motion of same Representative to accept the Majority "**Ought Not to Pass**" Report.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to speak very long because I think we have more of an agenda tonight than usual and it is already getting late and it is dark outside.

I do want to share with you that this is the last of the so-called tort issues that has come before this body since I have been a member of the Judiciary Committee and that has been since 1985. We have passed a number of these items, we have debated them in committee and on the floor of the House, but this is perhaps the earliest that I can ever remember. Instead of it being 5:30 p.m., it is usually about 5:30 a.m. when we get to these issues. I think you can appreciate the difference this afternoon.

We have done pretty much everything that has been necessary to try to reduce insurance premiums against physicians and hospitals in this state. This is the last issue that is being asked of us and I do not

believe that it is necessary because I am not convinced, I have not ever heard testimony that this will reduce medical malpractice insurance. The carriers, carriers like St. Paul's Insurance, has written memorandum after memorandum saying that this will have absolutely no effect on the price of its insurance. Over the last several years, we have instituted reform in the fee that we pay attorneys by limiting the fees in the area of medical malpractice. We have reformed the so-called collateral source rule, I debated that and defended the reformed just two years ago. This is the issue when you have received certain insurance payments for a claim for an injury and then after you have settled your malpractice claim, you then have to pay all of that money back.

We have instituted reforms in the areas of structured payments where only so much money can be given to the injured person upfront and the rest of it has to be given after a series of years. We have reduced the State of Limitations that allows an injured person to bring action. It used to be six years, now it is down to two years and they have to file a timely notice of claim against the physician or the hospital and they have to do it quickly. We have instituted medical malpractice screening panels, we will be debating that issue later on this session. We have the panels, they have been in place since 1986 or 1987 at the request of the tort reform committee that came before the Judiciary Committee.

If you recall, two years ago, bright and early one morning, this body passed the five year medical demonstration project in rural access to medical care program. This reduced rates immediately, our rural care physicians were given grants of several thousand dollars apiece in order to help pay their malpractice. This program was debated in this body, it was passed by the other body, the Governor signed it into law and I think that this new program is going to have a very positive effect, but on this particular piece of legislation, I have never voted to support it, I cannot support it today, and I ask you not to support it.

It is perhaps one of the most anti-women pieces of legislation that this body will ever consider. Why do I say that? Well, what it does is it places an artificial cap of \$250,000 on the noneconomic areas. If a person has been injured and they cannot work, they get (in a settlement) so much money for not being able to do the job that they were doing. Let's say that that same person is unemployed, has been laid off, and that has happened with a great deal of frequency in this particular economic environment that we have and it will happen again, the person is not the breadwinner for the family, might have the luxury of living at home and caring for the children or has a job that doesn't pay very much and is the sole breadwinner for the family, (a divorced mother with one, two or three children and that isn't unusual today) then that person's ability to recover is severely limited. This isn't pro-women, this is anti-women legislation because only those of us who make a great deal of money can have that offset by the economic loss and not have to look to the noneconomic cap of \$250,000. As an aside, when this bill was originally introduced, it had a \$250,000 cap about 10 years ago. There hasn't even been an admittance that inflation should have caused this to move way upward. I think it is more or less for a debate that a \$250,000 cap is lower

than most of the other states that have been asked to institute caps.

You have on your desks a story that was printed in a Maine newspaper several months ago regarding a Sharon Pratt. I think I would like to introduce this part of her story into the Record just so it has a more human element. We can discuss all kinds of economic figures and statistics but I think if we don't see the human side of it, we really shortchange ourselves and our constituents when we vote.

In May of 1987, Sharon Pratt was 28 years old. She says, "I was at home with my son during the day and attending classes for my Master's Degree in the evening. I was 12 weeks pregnant with my second child when I discovered that a previously misdiagnosed malignant melanoma had spread internally. I was faced with a decision of whether or not to continue my pregnancy. I was told that this cancer was likely to spread further and kill me. I chose to have my baby. After she was born, I discovered that the cancer had spread to my lung. I have just finished four years of chemotherapy and immunology therapy and I have one year of treatment still to go. Had the melanoma been properly diagnosed and treated in its early stages, I would have been cured and none of the surgery and additional treatments would have been necessary. The future for me is still uncertain, the odds of cancer recurring and being fatal are still high. Had this proposed legislation been in effect in 1987, I would have been profoundly affected. The fact that I was working toward a Master's Degree and therefore a better job would not have been taken into consideration when determining lost wages. It is unfair to examine someone's life at one particular junction and then assess a monetary value to it. I think that legislation like this discriminates against a portion of the population that is the most vulnerable and needs protection the most. My choice to leave my career and stay home with my children was a difficult one and I feel that legislation like this sends the public a message that women who choose to stay at home with their children are worth less than other members of the community."

I hope that a majority of you will not buy the argument that we must pass this piece of so-called reform because it will make a difference. The only difference it will make is that insurance companies will have a better idea of predicting what their losses can be, what their liability will be, it will not reduce rates. Our rates have gone down substantially in the last couple of years because the market has dictated that those rates go down. Malpractice insurance is of a national scope, they don't look at Maine in particular. When St. Paul's sells insurance, they sell it across the country, they do not look at what Maine does or does not offer. They look at what types of claims we have, what types of claims and liabilities nationally are incurred.

You will hear other testimony this afternoon about why this legislation is bad so I am not going to belabor the point. I just hope that when you vote, once again, as you voted in 1988 to defeat this type of legislation that you will remember that we do everything to hurt our constituent who has been injured, has had a jury decide that there has been a legitimate malpractice claim made, we do nothing to help that person, what we are doing is we are helping the insurance companies keep a portion of the dollars

that they charge in their premiums. If we learned anything in the Workers' Comp to date, we learn that companies pay premiums, injured workers are denied claims while the insurance companies reap millions of dollars of profit and are not held accountable for what they charge.

I urge you to vote for the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I guess it is expected of me to rise and debate this issue this evening because about two years ago this was on the plate, as was mentioned, and it was taken off the plate.

Medical malpractice caps, as we know them, are not new just to Maine. We are one of the latter states to actually act on them one way or the other. California has them — they are at \$250,000 and several other states have them. Some have held them to be unconstitutional. Maine, of course, by its Supreme Court just very recently upheld caps on providers of alcohol, servers of alcohol, so caps are allowable in Maine. The issue is whether or not Maine is ready to understand and accept the common good.

We have all watched what has happened to our health care, we all cry about the access of our health care, the cost of our health care and yet, time after time, we, this legislature, does nothing, it simply adds to the cost of the health care. We did it today in a very meaningful piece of legislation for a lot of people who have mental disorders. That will cost millions of dollars to the people of Maine who will provide the insurance to pay for that. We do that by allowing, regardless of how frivolous the cause, litigation in this country and in our state beyond the bounds of any other civilization, beyond the bounds of any other country in the world. We litigate more matters in this country than any other. While they say Maine is simply just in the average, I ask you to look at the other countries that we compete against and ask you, what is a level of litigation that is right? We pay for it, we pay for it dearly and yes, malpractice insurance went down last year in this state but, in the last decade, it rose 650 percent. Claims paid rose 1,100 percent.

We have an opportunity to create some access to help a medical problem in this state, the ability to get the package that was developed and passed two years ago by this House and by the other body and is now lost. It should have contained this one, in my opinion. That spread to rural Maine, those savings that were going to occur and did occur, regardless of those who argued to the contrary. It did occur and has spread so that rural doctors in Maine get support for the costs.

Let's talk about fairness here for the common good. Let's talk about what happens really to all of our citizens, not for one who hits the jackpot in the lawsuit. The child who is being born in Fryeburg they carry to Bridgton because there is no adequate medical facility or personnel to care for that mother. That child is being born and they then have to put them back into the rescue unit and carry them to Portland. It happened just last summer. No access in our area for that kind of OB/GYN coverage.

In Judiciary two years ago, we heard about the seashore county that had one OB/GYN in that county.

Within three months before the bill even came to this floor to be debated, (on medical malpractice) she had left the state because she had told us that her costs were rising at a very, very heavy rate.

Maine has had a disaster in its health care as has every other state in the country. This is an incremental step towards covering or providing that type of care and access to those that we would universally hope to be covered because it is for the common good. Pass it and I will admit there may be one, maybe more, that will be harmed by this and yet I ask you again, look at what is being said by Mrs. Pratt — no amount of money, and I would agree with her, no amount of money will ever undo the past or preserve the future — her words.

When I am violated because somebody is negligent, and I will tell you right upfront, medicine is an art, it is not a science, it is still an art, people, and there are perfect procedures that result in poor results. Yet, they have to defend because of the eagerness of one who would prosecute a claim. The expenses are still there but the person who is violated, who has truly been neglected, we will never, ever pay with dollars what is needed. That is why this legislature, in many areas, limits liability. That is why this legislature, in many areas, has statutes of limitations. You can't sue somebody forever.

We have to understand that, if we as a community of people in Maine, wish to have the best for the most in a very, very general broad sense, there has to be limitations on some.

My car says right on the speedometer that I can drive 100 miles per hour. You don't let me drive a 100, you make me coast it down to 55, 65 on the turnpike. When I pass a school bus with a flashing light, it is 15 miles an hour. You set that limit because it is for the common good. Everybody benefits, even those who have a reckless need for a major emergency to go 200 miles an hour to get to the doctor, to get to a fire, they still have to obey the traffic laws, we have told them that. They still cannot speed, they still cannot run red lights, we have told them that. We have an opportunity to help the common good. You may not like it because you see the lottery there to win something big but look who most heavily pressures us not to vote for this bill. Who called you most frequently? Was it the Mrs. Pratt's or was it someone else? The common good calls for the passage of this law — is your conscience up to that? I hope it is. I hope you will vote against this Majority Report so that we may adopt the Minority Report and get on with helping all of us as best we can, although some may not be helped as much as others.

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

Representative COTE: Mr. Speaker, Ladies and Gentlemen of the House: I oppose a cap on noneconomic damages because it is unfair and affects only those who have been most severely injured. By confining a damage limit to medical malpractice plaintiffs, we will be creating a disfavored class of injured persons. Why should a person disabled for life by negligent surgery be treated differently from a person identically injured by someone's negligent use of a firearm? In our constitutional system, juries decide what a complete remedy should be. Any statutory figure which establishes maximum damages for actual noneconomic losses will invariably intrude

upon the traditional function of a jury in civil suit to assess damages based upon facts proven at trial.

Caps only work where the damages exceed the amount that a negligent defendant is required to pay. A cap takes property from the victims and gives it to the wrongdoer. There have been just a handful of cases in recent years that had noneconomic damages in excess of \$250,000. The fact of these few cases led juries to conclude that such awards were justified but the importance is not how many cases but the severity of the injury which the injured party suffers.

Men and women of the House, I urge you to support the Majority "Ought Not to Pass" Report and vote against the cap proposed in L.D. 344. Let us leave the determination of fair and just compensation amounts to the courts and juries of our state. Again, I urge you to keep the consumers rights in mind and vote against L.D. 344.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I would urge this body to vote against the present motion so we could go on to accept the Minority Report.

For those of you who weren't lucky enough to be here in the 113th, this body sat through many hours, 23 pages of Legislative Record, in debating this issue.

My point in rising this evening is just to make six points. The first, what exactly are economic damages? Economic damages are those damages which are subjectively verifiable, loss of a persons income, loss of the use of property, loss of their earnings or their earning capacity, custodial care, their medical expenses, their rehabilitation services, their loss of business or employment opportunities. That's what economic damages are. Those will not be touched in this bill before you. What will be are noneconomic damages, those that are objective such as pain and suffering, inconvenience, physical impairment, mental anguish, emotional stress, humiliation, loss of companionship, loss of consortium. Nice legal terms, terms that yes, there is a damage there but there is not any way to put an objective pecuniary amount to.

Second point, the caps will be for medical malpractice liability only, no other personal injury cases at all, only those dealing with medical malpractice.

Third point, two-thirds of all doctors in this state are self-insured through Medical Mutual. This is not a multi-national insurance company that is abusing the money of people or has corporate greed as their number one goal. This is a Maine company insured by two-thirds of Maine's doctors.

Fourth point, as the good Representative from Augusta, Representative Paradis, pointed out as far as this would be an artificial cap — this legislature has (in the past) already favored such artificial caps in Maine's Dramshop law.

Fifth point, twenty-nine states have passed caps on noneconomic damages.

Sixth point and I think one of the most important is a question of access to health care and who will pay in the end. Make no mistake, that all of Maine's citizens pay when there are large awards for noneconomic damages.

The fact that our medical profession is trying to provide a service where they have turned to

self-insurance to provide the most inexpensive means of insurance so that they do not have to pass expensive costs onto their consumers, the people of Maine who are injured, I think should be a point that we take into consideration this evening.

I would urge this body to vote against the pending motion so that we can go on to accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: In my view, this bill is nowhere near as significant as one would believe based on all the material that we get coming across our desks, one way or the other, because there is only a handful of people each year that are injured to an extent that they reach the limit, so it only affects a handful of people. On the other side of it, again, it is not very significant because the actuaries, including the actuary for Medical Mutual, said they could assign no points for passing this, it would not affect rates, it clearly would not affect rates, so it really doesn't matter (I suppose) in the big picture of things if it doesn't affect rates and only a handful of people would be hurt.

I had to decide how I was going to vote on this bill and what made me vote the way that I did is because of a friend of the family that I have known since I was ten years old, a woman who at that point was 10 years old than I, 20, and she was just starting nursing school. She had a simple operation and when she went to the hospital, she was given a spinal. Now I don't know what went wrong but something seriously went wrong and she was paralyzed from the waist down. They tried many ways to restore her ability to walk and never could. Finally, they severed the nerves that went down into her legs (knowing there was no hope) because she was experiencing some pain. She spent, from that time to when she died less than a year ago, in a wheelchair. She never got to be a nurse and I ask you, what would it be worth to you to have that experience? How much would you think you should be paid for a month of that or a week of that? When you figure that out, you multiply that by 52, and that is how much it ought to be worth for a year of that. She lived that way for 42 years, so multiply that by 42 and you are way over \$250,000. There was no economic loss there, there was no provable damages of an economic nature, she had not been licensed, she had not come close to being licensed as a nurse, but she spent the rest of her life in a wheelchair and she didn't get to do what she wanted to do. She didn't get to do a lot of things that she wanted to do. She was never married. So, I say to myself, for those handful of people, when you consider that there is no reduction in insurance rates if we pass this cap, for this handful, for each one of those handfuls, those very few that have noneconomic damages that rise to this amount, I think we owe it to them to give them a chance to go to the jury and make their case.

I ask you to join me and go with the Majority Report on this bill.

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

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I don't wish to be involved in what I hear as a war between doctors and trial

lawyers, what I do care about is the patients in the State of Maine, patients in Aroostook County and throughout this state who cannot find a physician. We have a shortage of at least 300 physicians in the state, we have difficulty recruiting and retraining doctors.

Our local physician died in 1975. Since then, we have had five physicians come to that area and all five of them have left. When they left, they didn't go to lucrative practices in Bangor, Lewiston and Portland, they left the state. The Aroostook Medical Center, and certain other hospitals in the state, spend much time recruiting and recruiting specialties, sometimes for three or four years before they bring a physician in. The problem is not just in specialties, the greatest shortage is in primary care. Ladies and gentlemen, that is what we need for the patients in Maine. What do we have to offer these physicians when they come? Our last budget decreased Medicaid by 10 percent. Prior to this, the reduction of physicians were paid an average of 39 cents on the dollar for Medicaid patients. Maine physicians are losing reimbursement as well because of new Medicare fee schedules that took effect January 1, 1992. We are a large, rural state, it is difficult to practice medicine here, difficult to provide coverage for the patients and difficult to keep up to date.

Finally, we have an unfavorable liability climate. Our doctors pay more for their insurance, even from their own mutual company than the doctors in California. Why? Because, since the 1970's, California has had a \$250,000 limit on noneconomic damages in medical liability cases.

I am going to vote against this Majority Report so that the Minority Report might be accepted because I want doctors to come to Maine and to stay in Maine. I do not believe that it is unfair when you consider that the limit is on noneconomic losses only. We already have a stronger cap that this legislature has put on the deliverers of alcohol. Can we do less for the deliverers of babies?

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: Since it has been mentioned a couple of times about the liability on liquor servers, the so-called Dram Act, I just want to clarify something about that Act. The Dramshop Act — true it does limit the amount of recovery that a server of alcohol can get but that was something that was never available under the law before. This is something that the legislature gave to people, not a right they had innately, but something that the legislature gave to them and we capped it at \$250,000.

What we are talking about doing here today is taking away a right, taking away an innate right people have to recover for their damages. That is a distinction between the Dramshop Act and what we are considering here today.

I hope you will vote for the Majority "Ought to Pass" Report.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: I sympathize with Representative Pines. If by passing this Act we could get physicians in rural Maine, I would certainly urge the body to vote for it. There is no evidence that that is true.

Year before last, the body passed the Demonstration Project in an effort to get physicians to Maine and to reduce their premiums. That project went into effect January 1st of this year. We have done everything that we can to entice people, doctors, to go into rural areas. This is not the solution. We give away someone's benefits here, an historical benefit. As Representative Lawrence said, it has always been in existence, a right to take your case to the jury and have them decide. What are we getting back if we pass this? We are not getting back any guarantee of reduced rates, we are not getting back even a promise of more physicians in a rural area, we are not getting back any promise to keep rural hospitals open, we are not even getting the hope of that. The federal government's general accounting office did a study twice to try to find out why rural hospitals were closing. The caps on liability were not even considered as having the slightest, most miniscule effect, on rural hospitals. That has to do with access, competition, poor economies in the area, but it has nothing to do with caps on damages. If it were true, then you wouldn't find a majority of the committee up here saying, don't pass this bill, but there is no evidence of that at all.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: I have spoken against this bill ever since I have been in this House and I will vote for the acceptance of the "Ought Not to Pass" Report tonight.

I would like to explain some things which have already been said to you but because they are complicated, legal things and I think they need to be stated again. I say that because I was taught in law school that you need to say, this is the way it is and then doggone it, I mean it.

I was greatly disappointed in the Law Court's opinions on the Dramshop Act. First of all, I agree with everything that Representative Lawrence said about it but I think it is important to recognize that one of the other distinctions with the Dramshop Act is that the Dramshop Act is a sort of fine against somebody who does not actively cause damage. You go to your local gin mill, you buy more drinks and persuade the bartender that you are still sober enough to go out and get into your car and you get into that car and you crash yourself into a telephone pole, you can sue the guy that served the liquor, the person who owned the bar or whatever, that is the Dramshop Act, but that is different from what we are talking here today. I recognize all the arguments but when you commit your life into the hands of a physician or a surgeon and it is a medical malpractice case, then there are damages that flow and it seems to me that some of the things that we need to focus on are the messages that have been given us down through the courts of history.

You have before you this piece of paper which is written for a national audience so it has the national constitution in front of it. It seems to me that the most poignant of the things that exist in this state is our own Constitution. The disappointment I had with the Law Court's opinion was that it only mentioned in passing the Constitution of Maine and it never specifically dealt with the article which I believe needs to be read and has been read by others, probably so much better than I read

it, but I read it because I believe in it. It says in Section 20 of the Declaration of Rights, "In all civil suits and in all controversies concerning property, the parties shall have a right to a trial by jury except in cases where it has heretofore been otherwise practiced, the party claiming the right may be heard by himself and his counsel or/either at his election."

What I say to you about the Constitution tonight is what those words mean as we need to think about our fellow citizens in terms of what the framers of the Constitution said to us. What they said is that it is in that jury system that ultimate right or wrong will be decided. If, and I hope none of you will ever have to go to a jury for physical injury, you are likely to be able to prevail, then I hope you will remember the Constitution then speaks for you. If you are lucky, as most of us are, the Constitution will not protect us on a personal basis, but it is a message to you as you vote on this bill. If you hear that message, you cannot vote for it.

I will support the Majority "Ought Not to Pass" Report and I hope you will too.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Men and Women of the House: I will be brief as it is late. This is a very tough question, the issue of whether to put caps on noneconomic damages. Someone earlier in the debate asked a question of who had you gotten calls from — well, I have gotten calls from a number of my friends and neighbors who happen to be physicians and I care very deeply about their opinions and about the amount that they have to pay for liability insurance. I also care very deeply about women and I want to tell you that that is the argument that swayed my vote to vote with the majority of my committee on this issue.

These caps hurt women because women still earn less than men in our country and in our state, somewhere like 70 cents on the dollar. Therefore, women cannot possibly show the same economic loss that men can in a lawsuit for damages. The noneconomic damages pay for pain and suffering and are the only way that many women can get fair treatment in our courts when they have been injured.

Several states, almost thirty, have done studies of gender bias in their court systems and one of the conclusions that they came to was that juries, in general, tend to give women smaller awards than they give to men. I don't know why that is but this would just encourage that to happen more often if we pass these caps. Women and men do not have equal economic power in our society. Please, let's make certain that they do have equal power in our courts.

I urge you to vote for the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I hesitate to rise again but having heard a couple of things said, I thought at least they should be responded to.

For the Record, let it be said that in 1986, we passed a law which increased the Statute of Limitations from two to three years and it remains at three years, not two. It has never changed since 1986. If you think that caps do not affect insurance premiums, you are incredibly naive. It is true that you can talk to actuaries and they will talk out of

both sides of their mouths, just as I as a lawyer do for a plaintiff one day and a defendant the next, but I tell you that history shows that caps do work.

Remember that this state has, on many occasions, passed limitations, not only on the Dramshop Act, but wrongful death. There is a limit on how much you can get. There is a limit on death benefits under Social Security — these are all limits that we fixed because we say they are necessary for the common good.

No one is talking about taking away one's trial by jury, regardless of the good Representative from Belfast's marginal description of what is in the Constitution but rather we are talking about limiting what can be had for noneconomic damages. Noneconomic damages are not affected by what one earns. They are not affected by what medical expenses we have, they are not affected by rehabilitation costs. If I have low wages, yes, that part of my judgment is smaller, but men and women should, and the system at least says it shall, be equally treated when it comes to pain and suffering. That pays for yet another portion. What we are saying is that both men and women will be treated equally when it comes to pain and suffering.

I cannot get your economic damages higher if you make a hundred dollars a week as opposed to the lawyer that makes a thousand dollars a week. Who is going to get the higher economic recovery if he is injured? The lawyer is, he makes a thousand a week, you make a hundred a week. When it comes to pain and suffering, you stand in the eyes of that jury the same way as does the lawyer. Your pain is just as great, your humiliation is just as great, your loss of consortium with your spouse is just as great — it is balanced. What we saying to men and women is, it shall be capped at \$250,000. This is not anti-women, it is a bill for the common good of all. Don't be fooled by those who pressure us otherwise.

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

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I didn't quite understand the Representative from Fryeburg's question but then I didn't understand many of his explanations either. Let me read into the Record, Section 19 of the Constitution and I will read it slowly so that perhaps even he can hear.

"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." That is all the people of Maine seek and they ask you to reject this bill so that that will occur.

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

Representative RAND: Mr. Speaker, Men and Women of the House: The insurance companies are making a great deal of money in Maine. According to the A-Invest Company, which collects data for the insurance companies, Maine's loss ratio in malpractice, that is the percentage of premium dollars that have been paid out in claims, is 29 1/2 percent between 1979 and 1990. That is compared to the U.S. total, which is 45.42 percent. That figure ranks Maine as having the fifth lowest loss ratio in the country over the last 11 years. In addition, we have already heard that St. Paul's has lowered its rates and Medical Mutual of Maine is also going to be

lowering theirs. This does not sound like the insurance companies are struggling in Maine.

Jury awards are not out of control in Maine and judges always have the option to reduce an award if the award is excessive. If we pass this cap today, we will not be guaranteeing that premiums for doctors will be reduced. We will not be guaranteeing access to our rural areas, we will only be hurting those malpractice victims who have already been harmed by the system.

Please accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Men and Women of the House: I care about women also. As a woman who has, in the last six years, had two children, I also care about obstetric care in rural areas. I live in a rural town that is served by the Leeds medical center. In fact, the Russell Medical Center serves seven rural towns.

I received a call last night from one of the physicians at the health center. He had given up OB work because of the high cost of malpractice insurance. Because of action we took in 1990, he has now returned to obstetric work at the medical center in Leeds. As a result, the families in the rural towns served by the DFD Medical Center now have obstetric services to us. Tort reform can work and I urge you to vote against the pending motion.

Representative Martin of Eagle Lake 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 pending question before the House is the motion of the Representative from Augusta, Representative Paradis, that the House accept the Majority "Ought Not to Pass" Report.

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

Representative Simonds: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Portland, Representative Hoglund. If she were present and voting, she would be voting yes; I would be voting no.

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

Representative CONSTANTINE: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from St. George, Representative Skoglund. If he were present and voting, he would be voting yes; I would be voting no.

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 Brunswick, Representative Clark. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the

Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Brunswick, Representative Rydell. 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 the motion of the Representative from Augusta, Representative Paradis, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 293

YEA - Adams, Anthony, Bailey, H.; Bell, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Coles, Cote, Crowley, Daggett, Donnelly, Dore, Duffy, Duplessis, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Heesch, Heino, Hichborn, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Libby, Lipman, Luther, Macomber, Mahany, Manning, Marsano, Martin, H.; McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, O'Dea, Oliver, Paradis, J.; Paradis, P.; Parent, Pfeiffer, Pineau, Poulin, Powers, Rand, Rotondi, Saint Onge, Sheltra, Simpson, Spear, Stevens, A.; Stevens, P.; Strout, Swazey, Tardy, Townsend, Tracy, Treat, Tupper, Wentworth, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Bennett, Boutilier, Bowers, Butland, Carroll, J.; Farnum, Farren, Foss, Garland, Gray, Greenlaw, Hanley, Hastings, Hepburn, Hichens, Lebowitz, Look, Lord, MacBride, Marsh, Merrill, Nash, Norton, Nutting, O'Gara, Paul, Pendexter, Pendleton, Pines, Plourde, Pouliot, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Ruhlin, Salisbury, Savage, Small, Stevenson, Tamaro, Vigue, Waterman, Whitcomb.

ABSENT - DiPietro, Dutremble, L.; Graham.

PAIRED - Clark, M.; Constantine, Hogle, Mayo, Ott, Rydell, Simonds, Skoglund.

Yes, 89; No, 51; Absent, 3; Paired, 8; Excused, 0.

89 having voted in the affirmative and 51 in the negative with 3 being absent and 8 having paired, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-878) - Minority (2) "Ought Not to Pass" - Committee on Banking and Insurance on Bill "An Act to Provide Equitable Insurance Reimbursement for Acupuncture Services Provided by Licensed Acupuncturists" (H.P. 683) (L.D. 982)

TABLED - February 4, 1992 by Representative MITCHELL of Vassalboro.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

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

Representative GARLAND: Mr. Speaker, Ladies and Gentlemen of the House: What this bill is trying to do is increase the utilization of acupuncture. Right now, you can get acupuncture treatments by a physician or chiropractor and it is covered. This bill would allow the patient to bypass his or her doctor and go straight to the acupuncturist. I would like to know, where does this end? What special interest group will be in next to have their services covered, verbalotrists, physiologists, there are a number of them. I do not think it is appropriate to mandate acupuncturist reimbursement at the same rate as doctors.

I would urge you to vote no on this legislation.

Mr. Speaker, I request a Division.

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

Representative RAND: Mr. Speaker, Ladies and Gentlemen of the House: This bill allows payment for acupuncture when the acupuncture is performed by a person who has been schooled, who has been trained in that practice. The law presently allows an M.D. to perform acupuncture and be paid even though that M.D. has never had a day's training in acupuncture. This is not an additional mandate that we are saying that another practice should be paid for or covered under insurance. This is a practice that is covered now by medical insurance. It is just that we felt that it was a good idea to have the people who are performing the service and who have the training be paid as well as an M.D. who probably hasn't had a day's schooling in the practice.

I urge you to accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Vassalboro, Representative Mitchell, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

68 having voted in the affirmative and 51 in the negative, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-878) was read by the Clerk and adopted and the bill assigned for second reading Tuesday, February 11, 1992.

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 third tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-881) - Committee on Legal Affairs on Bill "An Act Authorizing Presidential Primary Elections in the State" (H.P. 744) (L.D. 1048)

TABLED - February 4, 1992 by Representative LAWRENCE of Kittery.

PENDING - Motion of same Representative to accept the

Majority "Ought Not to Pass" Report.

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

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: I do request the yeas and nays.

I have had placed on your desks today a white sheet entitled "Why a Presidential Primary and a Caucus for Maine." A page and a half describes three or four central issues that this bill brings before you and I want to highlight them.

This bill asks for a presidential primary and it maintains the presidential caucus for Maine. Let me go through in rapid fire the major reasons for that.

A caucus does not provide for a secret ballot. A presidential primary is an election. We are an electoral democracy and as a part of voting, we have the secret ballot that is viewed as an essential political reform. We all know the feeling of discomfort that comes from the public voting that a caucus mandates and brings to citizens. A presidential primary would allow voters, in probably one of the two or three most important elections that will come in every four years, to cast that key presidential preference vote in the privacy of a voting booth. That is a critical dimension that I think a lot of people who are not particularly involved in politics who want to cast their preferences in a primary like the secrecy of a voting booth and I want to stress that issue. Of course, a caucus doesn't allow for an absentee ballot, you have to be there on a Sunday afternoon, you can't vote before it. There is no mechanism for an absentee ballot.

Another point is that the simple reality of a two, to three, to four hour caucus, for most citizens, is a long, boring, confusing and complicated process, which involves issues and perspectives that they may not want to spend a Sunday afternoon dealing with. But if they want to exercise their constitutional prerogatives to cast a ballot for their presidential preference, they must be there and must be a part of that process. It is a long, complicated process and I would suggest and urge that many citizens don't particularly want to go through that process. We are an electoral democracy and they want to go to a booth and cast their ballot for an individual who is running for the nomination of their party and then they want to get back about their lives.

The simple reality is that the caucuses generate three, four, five percent of the eligible voters. Folks don't go to them. Even in the most critical turnout environment, the turnout for primaries is in the 15 to 25 percent range. It is three, four, five times as many as who turn out for caucuses. Caucuses are balloted in important environments for political activists, they should remain an option for political parties so that those parties can have caucuses to select the people who will actually participate in the state and, ultimately, in the national convention. They are an important and valuable place and this bill gives the prerogative to the parties to call their caucuses. In fact, most states that have primaries also have caucuses for the purpose of delegate selection but the allocation of the delegates amongst the presidential nominees, that fundamental democratic decision remains with this

bill, with the voter, in the secrecy of the voting place.

I have done one other thing in my involvement with the bill, both in committee and as sponsor, and that has to do with the issue of a New England Regional primary and I want to raise that for you for a second. For a long time, there has been a lot of observation that New Hampshire's determination to be first in the nation, which convention after convention, at least on the Democratic side, the Republican side it is generally tended to have a "hands off" view on the matter, they have been able to exempt themselves from some of the rules that call for all primaries to be between March 1st and June 15th. In 1992, the Democratic National Committee's Rules Committee has said that this will be the last time that New Hampshire will go early in the nation and first in the nation. The reason for New Hampshire doing it, we are all familiar with, it is a money cow for that state, it brings attention to their state and it is a way, in fact, of generating revenue for the state. It is part of the perspective of New Hampshire, over the years, in a variety of areas that has focused on the advantage that that may present to them. The observation is constantly made that New Hampshire's insistence on a solo primary, first in the nation, is the key to starting the hodgepodge of national primaries and its lack of coherence, its lack of movement through a regional sifting process from area of the country to area of the country, that disrupts state law from pulling together a more coherent, national regional, step-by-step primary system. I have to say, frankly, that that is as important to me and to some other folks that I work with as the issue of a primary election itself. New England values stand for something, New England is a diverse but relatively small section of the country, New England primary taking advantage of the first in the nation status that New Hampshire has in effect grabbed could be an opportunity for the first of regional primaries. There is a determination of the Democratic National Committee's Rules Committee to see to it that the exception that New Hampshire has will not continue, that this will be the last time that that happens.

The Republican National Committee, when I made inquiries there through a Republican national committee man, has taken a completely "hands off" policy towards New Hampshire. There might be some bearing on some recent politics related to individuals in that state in former White House officials who may have a disposition for that "hands off" position, but in any case, the Republican National Committee says to do whatever you want to.

This bill would be a first step in a process that would then go to two or three other states, in which I have had contact with legislators who feel essentially as I do, Vermont, Massachusetts and Connecticut, who would like to join (and will watch us) a New England Regional Primary effort for 1996, first in the nation.

The next step in the process, and I realize that the fiscal note, the back side of this piece of paper, puts this bill in serious jeopardy here and perhaps some other factors in the affection for caucuses, which I understand many sincerely hold, perhaps put it in jeopardy as well, but the next step is to go to the National Rules Committee of the Democratic Party (since they are the ones for more intervention) and have them insist on the rules that

are trying to compress in a step-by-step process between March 1st and June 15th a national primary system. It would go from region to region of the country sifting through the national candidates as politics develops, as disclosures are made, as issues are clarified, as personalities compete, so this bill has been placed before you today, I hope you will consider it, because I think that non-political activists would like to see a primary. I believe the secret ballot, the absentee ballot, and the possibility of parties having the pleasure of caucuses that allow the activists to go to conventions, that most people would favor that. I also put it in front of you because I think the regional approach to presidential primaries is the way we can start to bring some coherence and some reform (if I can use the word) in our national presidential selection process. That regional effort could start with New England because of support in other states. It could start because the accident of history and politics that gives New Hampshire its preeminent position and we have an opportunity to start that process going here which leads to the next point. Where to after that?

This bill deals with an expenditure that is three biennial budgets away, 1996-97 budget. There is a fiscal note on the back of it, three budgets away. There is a simple reality that one editorial comment has called "The fiscal objection to it ridiculous." That may be overstating it and certainly we need to be thoughtful about the expenditures of money. The obvious point is the generation of revenue that comes from the reality of a primary makes money for New Hampshire and a broader New England regional primary would probably be a wash. It simply would not be a factor, that the cost of the election could be borne by additional revenues brought into the state by this process.

I would hope that you would look at this with favor and obviously I urge your appropriate negative vote on the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: First, I do want to complement the Representative from Portland, Representative Richardson, who did one of the finer jobs I have ever seen a Freshman legislator do in researching this bill, providing us with information, and really working this bill.

He and I have a difference of opinion. I happen to like the caucus system. I think it goes back to our town meeting form of government where people really participate on-hand experience in selecting our presidential candidates. Regardless of how you feel, whether or not you support a primary or a caucus system, the big thing about this bill is that it is going to cost the state (has a fiscal note) over \$200,000. Not only that, it invokes the municipal mandates where it will be a mandate on the municipalities and we will have to fund that.

Currently under the caucus system, both parties, Republican and Democratic party, pay the costs of the caucuses. Under this bill, the state will now pay the costs of selecting a presidential candidate for each party in Maine.

I urge you to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I, too, commend my good friend from Portland on his research regarding this, but as a good Maine native, I think too much of my fellow Mainers to have them suffer through the ordeal that we see the New Hampshire people going through right now. It is too cold and too early in the year to have a circus in Maine. That is what is going to happen.

My good friend from Portland said, "What better publicity can Maine get?" I can just imagine the publicity we are going to get from California or Florida. Two nights ago, when the candidates were out here campaigning, we got a big snowstorm. It is bad enough to get the idea that it snows 12 months out of the year here, that is what we will get.

I don't want to subject the people of Maine to 35 candidates trooping up and down the state. The people up north, my fellows here are lucky, you don't get the TV ads that we do down here because your TV stations don't reach New Hampshire. There is one fellow that I have seen that constantly talks about medical insurance, the other one promises this, and I am reminded every night that somebody said, "Read my lips." I know all about the "Read my lips" — I heard it four years ago and I haven't forgotten it. We don't need this in the State of Maine, to come in and use you and then they don't know where we are. That is one of the reasons why I say we don't need a presidential primary. That will not bring out the people anymore than the caucus. Even if you had a presidential primary, there is nothing to say that if I am a candidate supporting one of the candidates that I am going to vote that way when I get to the convention next summer.

I agree with the Representative from Kittery, we are going back to the New England form of town government and that is the way we should keep it. If they want to find the time to go down to the caucus, fine, but if they won't go to the caucus, they are not going to bother to vote at the regular presidential primary. They will say, what does it mean? My daughters have asked me, "What does a primary mean?" It means that you are going to vote and it may mean nothing. One of them said, "If I was in New Hampshire, I would vote for Kerry." The other one said, "I would vote for Clinton." I told them that they might be surprised by next summer because Mario Cuomo might be a candidate by then on the Democratic ticket. She said, "That doesn't make sense." That's just what it is, it doesn't amount to much.

I hope you will go along with the "Ought Not to Pass" Report and let's have a little respect for the people of Maine.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Ladies and Gentlemen of the House: I only rise to say one thing. Our committee already debated this at great length and I urge you to accept the "Ought Not to Pass" Report. My good Chairman, Representative Lawrence from Kittery, explained it quite well, it is not necessary.

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

Representative STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: Let's not add anymore state mandates to our local communities. This is something that could cost us from \$200,000 up to maybe \$400,000

or \$500,000 and I ask you to accept the "Ought Not to Pass" motion.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Bell.

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: As far as the caucuses, I have been to quite a few, some are very good, some are so-so. I know not how you people are going to vote but, personally, I am going to vote for the primary and I will vote no on this issue.

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 the Representative from Kittery, Representative Lawrence, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 294

YEA - Adams, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Chonko, Constantine, Cote, Donnelly, Duplessis, Erwin, Farnum, Farren, Foss, Garland, Gould, R. A.; Gray, Greenlaw, Handy, Hanley, Hastings, Heeschen, Heino, Hepburn, Hichens, Hussey, Jacques, Jalbert, Ketover, Ketterer, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Marsano, Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Pendleton, Pineau, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Townsend, Treat, Tupper, Vigue, Waterman, Whitcomb.

NAY - Anthony, Bell, Boutilier, Cahill, M.; Cashman, Cathcart, Coles, Crowley, Daggett, Dore, Duffy, Farnsworth, Gean, Goodridge, Gurney, Hale, Hichborn, Holt, Joseph, Kerr, Kilkelly, Kontos, Larrivee, Lemke, Manning, Marsh, Martin, H.; Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Parent, Pfeiffer, Richardson, Simonds, Simpson, Tardy, Tracy, Wentworth.

ABSENT - Carroll, D.; Clark, H.; Clark, M.; DiPietro, Dutremble, L.; Graham, Gwadosky, Hoglund, Rydell, Skoglund, The Speaker.

Yes, 96; No, 44; Absent, 11; Paired, 0; Excused, 0.

96 having voted in the affirmative and 44 in the negative with 11 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

JOINT ORDER (S.P. 841) Relative to Establishing a Joint Select Committee on Governmental Restructuring.

- In Senate, Read and Passed.

TABLED - February 4, 1992 by Representative MAYO of Thomaston.

PENDING - Passage in concurrence.

On motion of Representative Joseph of Waterville, S.P. 841 was indefinitely postponed in non-concurrence and sent up for concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:

Bill "An Act Relating to Medicare Assignment" (H.P. 1580) (L.D. 2230)

- In House, Referred to the Committee on Human Resources on January 28, 1992.

- In Senate, Referred to the Committee on Business Legislation in non-concurrence.

TABLED - February 4, 1992 by Representative MANNING of Portland.

PENDING - Further Consideration.

On motion of Representative Manning of Portland, retabled pending further consideration and specially assigned for Tuesday, February 11, 1992.

The Chair laid before the House the sixth tabled and today assigned matter:

Bill "An Act to Modify Weight Limits for Farm Trucks" (S.P. 189) (L.D. 498)

- In Senate, Minority "Ought Not to Pass" Report of the Committee on Transportation read and accepted.

- In House, Minority "Ought Not to Pass" Report of the Committee on Transportation read and accepted in concurrence on January 30, 1992.

TABLED - February 4, 1992 by Representative MAYO of Thomaston.

PENDING - Motion of Representative TREAT of Gardiner to reconsider whereby the Minority "Ought Not to Pass" Report was read and accepted in concurrence.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I will be very, very brief. This is the same bill that we debated last Thursday. It was very thoroughly debated, in fact I would say that it was a very lengthy debate. Nothing has changed since that time, we are still talking about adding 10,000 pounds on farm trucks. Last Thursday, there were 148 people here so I think it was a case of whether the reconsideration was to turn votes around or not, but I think we had a very good debate and I think everything was discussed that should be discussed and I hope you will vote against the motion to reconsider.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I am under great pressure to be brief and I have given my solemn word (very unusual for me) but I just want to remind you that

this is a fairness issue. All we are asking for is the same treatment that the forest products trucks get. It is not merely for 50 trucks but less than 50 trucks, I have found out in the meantime, closer to 40, for a limited period of time during the winter, November to April 1st when less damage is done to roads, where only one to two loads a day are hauled normally and not everyday at that in one area, Aroostook County.

This would mean that we could do the work with seven loads that would otherwise take eight loads to do, which means fewer trips and that enhances safety. It will also save fuel costs. Remember the fuel costs in Aroostook County are least 12 cents higher. That is a big savings in the pocketbook. Moreover, it would save on fuel consumption.

Representative Tracy of Rome 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 Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add what Representative Mahany has said. Those trucks are hauling a perishable item. Farm produce is perishable, lumber is not.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: There used to be 40 farmers in the Madawaska/St. David area, there are now four, and out of those four, only one has a child who wants to continue in the business. Life has been very hard for these farmers in the St. John Valley. Lack of rain this summer really impacted on their crops and every year it is like Russian roulette.

The operators we have operating those vehicles are long time experienced people with a very excellent record. The least we can do is help our farmers out.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Bell.

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: Every year the farmers keep asking why they can't be treated equally with the logging people as far as weight. There is a very limited amount of truck traffic. Most of it, as has been mentioned, is during the wintertime. It is a fairness issue, they aren't on the road everyday like the logging trucks. When the price is up, they haul to the different shippers and that is the bulk of the traveling they do. It is only a fairness issue and the main thing is that you are not talking about a large amount of trucks, but we should give them weights the same as the logging trucks. They are not on the road one-tenth of one percent like the logging trucks are.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and

Gentlemen of the House: Everybody in the valley has spoken, I hope?

I guess I have to respond to what Representative Bell said, I know where he comes from and I know where he is coming from but I would point out to you when he said it is a fairness issue — I would remind you that 116 people voted two weeks ago against that same fairness issue.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I would simply like to remind the people that there is a difference between gravel and sand trucks and these farm trucks that we are talking about. First of all, there are a lot more of these gravel and sand trucks. Secondly, when they are running, they are running all the time.

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

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: There are two things that I just want you to think about before you cast your vote, the limited number of trucks, these are perishable goods and the thickness of the frost on the roads when they are on it will help protect those roads from extra damage during the season that they will be on the roads.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Gardiner, Representative Treat, that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted in concurrence. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 295

YEA - Adams, Aliberti, Anderson, Bell, Boutilier, Bowers, Butland, Cahill, M.; Carroll, D.; Cathcart, Chonko, Coles, Cote, Daggett, Donnelly, Dore, Duffy, Duplessis, Farnsworth, Farnum, Farren, Gean, Goodridge, Gould, R. A.; Gray, Greenlaw, Hale, Hichborn, Hichens, Holt, Jacques, Joseph, Kilkelly, Kontos, Larrivee, Lebowitz, Lemke, Lipman, Look, MacBride, Mahany, Marsh, Martin, H.; McHenry, Merrill, Michael, Michaud, Mitchell, E.; Nadeau, Nash, Norton, Nutting, O'Dea, Paradis, J.; Parent, Pfeiffer, Pineau, Pines, Poulin, Powers, Rand, Reed, W.; Richards, Ricker, Rotondi, Saint Onge, Savage, Simonds, Simpson, Spear, Stevenson, Strout, Swazey, Tammaro, Townsend, Vigue, Waterman, Whitcomb.

NAY - Aikman, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Carleton, Carroll, J.; Cashman, Clark, H.; Constantine, Crowley, Erwin, Foss, Garland, Gurney, Handy, Hanley, Hastings, Heeschen, Heino, Hepburn, Hussey, Jalbert, Kerr, Ketover, Ketterer, Kutasi, Lawrence, Libby, Lord, Luther, Macomber, Manning, Marsano, Mayo, McKeen, Melendy, Mitchell, J.; Morrison, Murphy, O'Gara, Oliver, Ott, Paradis, P.; Paul, Pendexter, Pendleton, Plourde, Pouliot, Reed, G.; Richardson, Ruhlman, Salisbury, Sheltra, Small, Stevens, A.; Stevens, P.; Tardy, Tracy, Treat, Tupper, Wentworth.

ABSENT - Clark, M.; DiPietro, Dutremble, L.; Graham, Gwadosky, Hoglund, Rydell, Skoglund, The Speaker.

Yes, 78; No, 64; Absent, 9; Paired, 0; Excused, 0.

78 having voted in the affirmative and 64 in the

negative with 9 being absent, the motion to reconsider did prevail.

The SPEAKER: The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report.

Representative Macomber of South Portland 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.

Representative Strout of Corinth moved that L.D. 498 be tabled one legislative day pending acceptance of the Majority "Ought Not to Pass" Report.

Representative Mahany of Easton requested a roll call on tabling.

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 the Representative from Corinth that L.D. 498 be tabled one legislative day pending the acceptance of the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 296

YEA - Aikman, Anderson, Anthony, Bailey, H.; Bailey, R.; Barth, Bell, Bowers, Cahill, M.; Carroll, D.; Carroll, J.; Clark, H.; Coles, Constantine, Crowley, Daggett, Donnelly, Dore, Duffy, Duplessis, Erwin, Farnum, Farren, Foss, Garland, Gurney, Hale, Handy, Hanley, Hastings, Heeschen, Hichborn, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lemke, Libby, Lipman, Lord, Luther, Macomber, Manning, Marsano, McHenry, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, O'Gara, Oliver, Ott, Paradis, P.; Paul, Pendexter, Pendleton, Pineau, Plourde, Pouliot, Rand, Reed, G.; Reed, W.; Richardson, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Small, Stevens, A.; Stevens, P.; Strout, Tardy, Treat, Tupper, Waterman.

NAY - Adams, Aliberti, Ault, Bennett, Boutilier, Butland, Carleton, Cashman, Cathcart, Chonko, Cote, Farnsworth, Gean, Goodridge, Gould, R. A.; Gray, Greenlaw, Heino, Hepburn, Hichens, Holt, Ketover, Kilkelly, Kutasi, Lawrence, Lebowitz, Look, MacBride, Mahany, Marsh, Martin, H.; Mayo, McKeen, Merrill, Michael, Murphy, Nutting, O'Dea, Paradis, J.; Parent, Pfeiffer, Pines, Poulin, Powers, Richards, Ricker, Spear, Stevenson, Swazey, Tammaro, Townsend, Tracy, Vigue, Wentworth, Whitcomb.

ABSENT - Clark, M.; DiPietro, Dutremble, L.; Graham, Gwadosky, Hoglelund, Rydell, Skoglelund, The Speaker.

Yes, 87; No, 55; Absent, 9; Paired, 0; Excused, 0.

87 having voted in the affirmative and 55 in the negative with 9 being absent, the motion to table one legislative day did prevail.

The Chair laid before the House the seventh tabled and today assigned matter:

Resolve, to Establish the Commission on Recall (H.P. 1377) (L.D. 1964) (C."A"H-868)

TABLED - February 4, 1992 by Representative MAYO of Thomaston.

PENDING - Motion of Representative WHITCOMB of Waldo to reconsider Passage to be Engrossed.

Subsequently, the House reconsidered its action whereby L.D. 1964 was passed to be engrossed.

On motion of Representative Look of Jonesboro, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-868) was adopted.

The same Representative offered House Amendment "A" (H-877) to Committee Amendment "A" (H-868) and moved its adoption.

House Amendment "A" (H-877) to Committee Amendment "A" (H-868) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: The purpose of this House Amendment is to charge the State and Local Government Committee to report out a proposal to amend the Constitution of this state to establish a procedure for public Recall of state and county officers. With the State and Local Government Committee drafting this proposal, a cost savings would be made by eliminating a possible Special Commission to do this work.

Secondly, this amendment gives a description of the Recall process which will be clearly spelled out within the Constitutional Amendment proposal presented to the citizenry for their vote.

The amendment drafted must include, but would not be limited to, the following: one, procedural requirements and limitations including: (a) the number of times a Recall may be attempted; (b) the minimum length of time an official must be in office before a Recall may be initiated; (c) the maximum length of time remaining in an official's term beyond which a Recall may not be initiated; (d) the maximum period allowed for petition circulation; (e) the minimum number of signatures needed on a petition to trigger a Recall election; (f) the maximum amount of time allowed for a petition to be certified; (g) a mechanism for determining the time for a Recall election and (h) the number of days an official has to step down after a Recall election has been lost.

Two, the reasons that a Recall may be initiated.

Three, a mechanism for the Recall of Constitutional Officers and the State Auditor by popular votes cast at any General Election or Special Election called for that purpose.

Four, definitions of the terms used in the amendment.

Five, a mechanism for the presentation to a non-partisan body of a defense by the official whose Recall is sought.

I believe that, as you read the review of these specific points, you will understand the need so that when the general public has a Recall Amendment before

them, they should know exactly what they are voting for. I believe that this spelled out process should be approved by the legislature and issued as a charge to the drafters of the Constitutional Amendment on Recall. As I have said before, the Recall process must be used wisely and under strict definition.

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

Representative JOSEPH: Mr. Speaker, I move indefinite postponement of House Amendment "A" to Committee Amendment "A."

Mr. Speaker, Men and Women of the House: With all due respect to our colleague on the State and Local Government Committee and her good intentions, the Joint Standing Committee on State and Local Government deliberated over this issue, dealt with this issue, and presented to this body a bill last year, which was accepted by this body and rejected by the other body. Therefore, a Committee of Conference was formed and a decision was made in that Committee of Conference to create the Commission on Recall. This body voted in favor of that Resolution just a few days ago to establish a Commission on Recall, which would in fact represent all the governments, municipal, county and state government, representatives from the Governor's office, representatives from the House of Representatives, representatives from the Senate and three members of the public. It was just one year ago when this body did accept the recommendation of the State and Local Government in a Divided Report, so I would urge you to defeat this amendment and continue to support the establishment of the Commission on Recall.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: It is said that when Edmund Burke got up to speak in the British Parliament, he was known as the dinner bell. He was so long-winded and boring that everybody went to dinner.

I think a lot of people right now would probably like to go to dinner or go to a baby shower or watch TV but they probably do not want to debate this issue at length so I will offer you one very compelling reason to vote for indefinite postponement of the proposed amendment. If you vote for that, you are going to have to listen to me again and again and again speak on Recall because what we will be doing is going over the same ground that we went over in the last session and we will be going over the same ground which the State and Local Government dealt with, not once, not twice, but several times.

I am in the habit of quoting British politicians tonight for no particular reason but Benjamin Disraeli I believe said that "consistency is the hobgoblin of small minds." I think there are some good things to say for consistency. I am pleased that the good Representative from Jonesboro has, at this point, decided to be interested in Recall. It is a position she consistently did not take in the past. I do believe that the Recall Commission, which you voted for before, voted for it twice, is the best, most prudent, way to now deal with this issue.

I, therefore, urge you to vote for indefinite postponement which will then allow us to get on with the issue at hand, will allow us to create the Recall Commission. I think it is prudent, I think it is moderate and I was very pleased the last time that seven Republicans voted for it, I hope more of you do this time.

This should not be a partisan issue. This is an issue for the State of Maine, it is about accountability, it is about democracy, it is about the credibility of state government. So, please vote to indefinitely postpone so we can get on with the business at hand.

Representative Tracy of Rome 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 pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that House Amendment "A" (H-877) to Committee Amendment "A" (H-868) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 297

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Gray, Gurney, Hale, Handy, Heeschen, Hichborn, Holt, Jacques, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Saint Onge, Simonds, Simpson, Stevens, P.; Swazey, Tammaro, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Marsh, Merrill, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tardy, Tupper, Whitcomb.

ABSENT - Anderson, Clark, M.; DiPietro, Dutremble, L.; Graham, Gwadosky, Hogle, Hussey, Jalbert, Michaud, Paradis, P.; Rydell, Sheltra, Skoglund, Strout.

Yes, 84; No, 52; Absent, 15; Paired, 0; Excused, 0.

84 having voted in the affirmative and 52 in the negative with 15 being absent, the motion to indefinitely postpone House Amendment "A" (H-877) to Committee Amendment "A" (H-868) did prevail.

Subsequently, Committee Amendment "A" (H-878) was adopted, the Resolve passed to be engrossed as amended by Committee Amendment "A" (H-868) and sent up for concurrence.

The following item appearing on Supplement No. 3

was taken up out of order by unanimous consent:

SENATE PAPER

Ought to Pass as Amended

Report of the Committee on State and Local Government reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-536) on Bill "An Act to Create a Budget Advisory Committee for Hancock County" (S.P. 814) (L.D. 2013)

Came from the Senate with the report read and accepted and the bill and accompanying papers recommitted to the Committee on State and Local Government.

Report was read and accepted and the bill and accompanying papers recommitted to the Committee on State and Local Government in concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 896)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 11, 1992, at four o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Bill "An Act Relating to Legislative Confirmation Hearings" (S.P. 894) (L.D. 2299)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

(Off Record Remarks)

On motion of Representative Nadeau of Saco, Adjourned at 7:19 p.m. until Tuesday, February 11, 1991, at four o'clock in the afternoon pursuant to Joint Order (S.P. 896).
