

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred and Twelfth
Legislature

OF THE
STATE OF MAINE

VOLUME II

SECOND REGULAR SESSION
April 3 - April 16, 1986
Index

SECOND SPECIAL SESSION
May 28 - May 30, 1986
Index

THIRD CONFIRMATION SESSION
July 15, 1986
Index

FOURTH CONFIRMATION SESSION
August 29, 1986
Index

THIRD SPECIAL SESSION
October 17, 1986
Index

FIFTH CONFIRMATION SESSION
November 24, 1986
Index

The House was called to order by the Speaker.
Prayer by Reverend Jack E. Perkins, First Parish
Congregational Church, Gorham.
The Journal of Monday, April 14, 1986 was read
and approved.
Quorum call was held.

PAPER FROM THE SENATE

The following Communication:

The Senate of Maine
Augusta

April 14, 1986

The Honorable John L. Martin
Speaker of the House
112th 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
Judiciary, the Governor's nomination of Douglas A.
Clapp of Pittsfield for appointment as District Court
Judge of District IV.

Douglas A. Clapp is replacing Earl Wahl.

Sincerely,

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

Was read and ordered placed on file.

ORDERS

On motion of Representative McSWEENEY of Old
Orchard Beach, the following Order:

ORDERED, that Representative Robert G. Dillenback
of Cumberland be excused April 11 and 12 for personal
reasons.

AND BE IT FURTHER ORDERED, that Representative
Polly Reeves of Pittston be excused April 12 due to
illness.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

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

Sister Constance Jalbert, of St. Therese's Parish
in Mexico, on the observance of her Golden Jubilee as
a member of the Religious Order of the Sisters of the
Presentation of Mary; (HLS 966) by Representative
PERRY of Mexico. (Cosponsors: Representative JALBERT
of Lisbon and Senator ERWIN of Oxford)

On motion of Representative Perry of Mexico, was
removed from the Special Sentiment Calendar.

Was read.

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

Representative PERRY: Mr. Speaker, Ladies and
Gentlemen of the House: I would like to recognize
Sister Constance Jalbert's 50 years of service as a
member of Sisters of Presentation. She spent 25
years in England and is presently a member of my
parish in Mexico. She is also the sister of
Representative John Jalbert of Lisbon.

Subsequently was passed and sent up for
concurrence.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Extend the Commission to Examine the
Availability, Quality and Delivery of Services
Provided to Children with Special Needs (H.P. 1652)
(L.D. 2330) (S. "A" S-515 to H. "B" H-692)

Was reported by the Committee on Engrossed Bills
as truly and strictly engrossed. This being an
emergency measure, a two-thirds vote of all the
members elected to the House being necessary, a total
was taken. 130 voted in favor of the same and none
against and accordingly the Bill was passed to be
enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Create a Paralytic Shellfish Poison
Monitoring Program (H.P. 1307) (L.D. 1823) (S. "A"
S-528)

An Act Relating to the Administration of
Preventable Disease Programs and the Bureau of Health
(H.P. 1651) (L.D. 2329) (S. "A" S-529 to C. "A" H-701)

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

(At Ease)

The House was called to order by the Speaker.

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

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

Bill "An Act to Reorganize the Department of Finance and Administration and the Department of Personnel" (S.P. 954) (L.D. 2392) which was Passed to be Engrossed as amended by House Amendment "A" (H-721) in the House on April 12, 1986.

Came from the Senate, Passed to be Engrossed as amended by House Amendment "A" (H-721) and Senate Amendment "A" (S-527) as amended by Senate Amendment "A" (S-530) thereto in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

Ought to Pass in New Draft/New Title

Report of the Committee on Labor on Bill "An Act to Maintain Unemployment Offices" (S.P. 935) (L.D. 2344) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Maintain the Sanford Unemployment Office" (Emergency) (S.P. 942) (L.D. 2360).

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted and the New Draft read once.

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

The following items appearing on Supplement No.

10 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

The following Communication:

The Senate of Maine
Augusta

April 15, 1986

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Legislative Veto over Agency Rules (H.P. 1579) (L.D. 2228):

Senator Andrews of Cumberland
Senator Kerry of York
Senator Hichens of York

Sincerely,

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

Was read and ordered placed on file.

REPORTS OF COMMITTEES

Ought to Pass

Pursuant to Joint Order (H.P. 1316)

Representative McHENRY from the Committee on Local and County Government on RESOLVE, for the Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1986 (EMERGENCY) (H.P. 1706) (L.D. 2403) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1316)

Report was read and accepted, the Resolve read once.

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

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

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

PAPER FROM THE SENATE

Non-Concurrent Matter

Bill "An Act to Make Certain Revisions in the Maine Tax Laws and Appropriations from the General Fund" (Emergency) (H.P. 1638) (L.D. 2310) on which the Bill and Accompanying Papers were indefinitely postponed in the House on April 14, 1986.

Came from the Senate with the Majority "Ought to Pass" in New Draft (Emergency) (H.P. 1700) (L.D. 2393) Report of the Committee on Taxation read and accepted and the New Draft Passed to be Engrossed in non-concurrence.

On motion of Representative Jackson of Harrison, the House voted to adhere.

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

PAPERS FROM THE SENATE

Ought to Pass in New Draft

Report of the Committee on Education on Bill "An Act to Amend and Improve the Education Laws of Maine" (S.P. 904) (L.D. 2271) reporting "Ought to Pass" in New Draft (S.P. 957) (L.D. 2399)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "B" (S-526).

Report was read and accepted and the New Draft read once.

Senate Amendment "B" (S-526) was read by the Clerk and adopted.

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

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Expedite the Resolution of Professional Negligence Claims, to Amend Selective Provisions of the Maine Health Security Act and to Abolish the Discovery Rule in Claims Against Health Practitioners, Health Providers and Attorneys" (S.P. 820) (L.D. 2065) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to Medical and Legal Professional Liability" (S.P. 958) (L.D. 2400)

Signed:

Senators: SEWALL of Lincoln
CHALMERS of Knox
CARPENTER of Aroostook

Representatives: DRINKWATER of Belfast
MacBRIDE of Presque Isle
PRIEST of Brunswick
LEBOWITZ of Bangor
PARADIS of Augusta

KANE of South Portland
COOPER of Windham
ALLEN of Washington

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

Signed:

Representatives: CARRIER of Westbrook
STETSON of Damariscotta

Came from the Senate with the Majority "Ought to Pass" in New Draft Report read and accepted and the New Draft passed to be Engrossed as amended by Senate Amendment "A" (S-521).

Reports were read.

On motion of Representative Paradis of Augusta, the House accepted the Majority "Ought to Pass" Report and the Bill read once.

Senate Amendment "A" (S-521) was read by the Clerk and adopted.

Under suspension of the rules the Bill was read the second time.

Representative Stetson of Damariscotta offered House Amendment "A" (H-728) and moved its adoption.

House Amendment "A" (H-728) was read by the Clerk.
The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: If you have taken time to read this amendment, it simply puts into the bill the \$250,000 cap on the pain and suffering damages in medical malpractice actions. This was the very measure that this body voted 100 to 14 in favor of just a week ago. I submit to you that this is just as valid today as it was a week ago. Without this \$250,000 cap, the rest of the bill is meaningless and ought to be scrapped.

The \$250,000 cap on pain and suffering is not going to hurt the plaintiff in any malpractice action. I want you to realize what pain and suffering is as opposed to economic laws.

When a person is injured through the negligence of another person he is allowed, generally, to recover his economic loss. That means what he had to pay out in professional bills, what he had to pay out in hospital bills, what he had to pay out in any other economic consequences of the injury. Economic loss also includes lost earnings from employment whether it is working for another or self-employed. So, the economic losses are not touched by this amendment. The plaintiff is still allowed to recover every dollar of his economic loss.

There is another element that is not affected by this amendment and that is mental anguish. Mental anguish is still allowed under this bill. Mental anguish means that if I have been horribly disfigured or if I have lost an arm or a leg or both arms and both legs, the mental anguish attached to such loss, as a consequence of such loss, is still allowed. This amendment does not touch that.

This amendment does address the so-called pain and suffering issue which is a lawyer's gimmick to make sure that he gets every last drop of blood available in his lawsuit. The pain and suffering allowed is usually a very nebulous thing, it is

almost a reward for the lawyer's good work in convincing a jury to allow this amount of damage and this, I submit, is what the bugaboo is of all our malpractice problems throughout the country because, under the present law, the sky is the limit.

I am afraid we got into this posture, perhaps, through our lottery minded public, the megabucks public, whereby people believe in getting rich quick and if you buy a chance and you are a big winner, you have won the jackpot and you have hit gold. That is what is at the bottom of this pain and suffering and this limitation that I suggest that we put onto this bill today -- to take out of the gambling the megabucks allowance of pain and suffering.

\$250,000 is more than any judgment that has been rendered in the State of Maine for that element of pain and suffering. It is not more than any verdict in the State of Maine but is more than that element of a verdict in the State of Maine.

When the insurance carrier is deciding how to fix the rate, he must take into account -- what is the limit on this recovery? Under the present law, the sky is the limit.

I suggest to you that this \$250,000 cap is an essential element if we want to make any steps at all in a field of tort liability and malpractice costs. I ask you to adopt this particular amendment and then we will get on with the business of the House. I ask you to support the amendment.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I move the indefinite postponement of House Amendment "A."

The bill that you have before you, L.D. 2400, is a bill that comes from a lot of intensive work on the Judiciary Committee, with a bill that was presented to us by a coalition of people concerned about medical malpractice. That was a professional liability work group.

I understand some of you have received either phone calls or letters on L.D. 2065, the original bill that came before us. The professional liability work group has worked for over a year trying to pull together provisions that would, in fact, lower the cost of medical malpractice insurance in Maine and then doctors would be able to continue in practice and the cost to the patients would be less. That professional liability work group included Blue Cross-Blue Shield of Maine, Maine Ambulatory Care Coalition, Maine Dental Association, Maine Hospital Association, Maine Medical Association, Maine Osteopathic Association, The American Academy of Family Physicians-Maine Chapter, The American College of Obstetrics and Gynecology, The Maine State Bar Association, The Maine Trial Lawyers Association and Medical Mutual Insurance Company of Maine.

In March, this work group brought L.D. 2065 to the Committee on Judiciary suggesting a number of changes imperative for lowering the costs of medical malpractice insurance in the State of Maine.

Now, when they brought the issue to us they asked the Judiciary Committee not to make any changes in the suggestions that they had brought to us. They wanted us to accept their package as it was, it was a carefully drawn up compromise and the Judiciary Committee had the opportunity to study each and every issue that they brought to us.

Along with that, we had three other malpractice bills, two of those malpractice bills were withdrawn

and, as you all know, the House passed a third bill which was defeated in the Senate in non-concurrence.

The elements of the third bill are in question now. But before I get into those, let me outline briefly for you what L.D. 2400 does. I want to stress that the eleven members of the Judiciary Committee who signed this bill "Ought to Pass" have worked through all of the questions that are currently in L.D. 2400. It was all a good faith attempt to bring a package to this legislature that we felt met existing problems. There were some questions that were left unresolved. When I say that, it wasn't that we couldn't get a unanimous agreement within the committee on certain questions. They were good legitimate questions but unanimity was not to be ours in those areas.

Let me outline some of the positive aspects of the bill for you because I have heard people say that this is a bad bill, it is all watered down, it is no good. I want to disagree with that and bring out some of the points why I feel that it is a good bill and worthy of our passage without being amended.

The first is that the bill establishes a mandatory screening in mediation panels for.....

The SPEAKER: The Chair inquires for what purpose the Representative arises?

Representative STETSON: Point of order?

The SPEAKER: The Representative may state his point of order.

Representative STETSON: The debate is on the amendment and not on the bill.

The SPEAKER: The Chair would advise the Representative from Damariscotta that, in looking at his amendment earlier today, it appears that his amendment deals with the entire bill.

Representative Allen may proceed.

Representative ALLEN: As I was saying, the bill institutes mandatory screening panels which I think are an imperative part of the bill as do the rest of the members of my committee. Those mandatory screening panels have an opportunity to screen out frivolous suits. A lot of us have heard arguments in debate about how people are getting rich on frivolous suits and perhaps there is some merit to that argument today. Perhaps they are not, perhaps insurance companies are paying off too soon, perhaps they are not, but we feel very strongly that this mandatory screening panel that has been established by the bill will certainly be a positive attempt to weed out those so-called frivolous suits and it will also be able to determine which suits, in fact, have merit. If they have merit, perhaps those can be settled prior to expensive costly litigation in the courts.

The second thing it does is that it will clarify our statutes with regards to wrongful birth. This is when a woman gives birth to a child after having gone through a sterilization procedure. Currently, there is some doubt as to whether or not she can be paid back for the expenses of raising that child. What the committee has done is basically codified a recent court decision, the Dillman case, which says that you can claim damages for any medical expenses that you incur while you are pregnant, the medical expenses that you had going through the sterilization that didn't work, but if a healthy child is born, that you cannot claim damages for the raising of that child. We thought that was a very positive step and that that decision be codified.

Another very important element of the bill is the

structured award section. As it stands now, if a court of law or jury determines that someone is entitled to more than \$250,000 in damages over the course of their life, that must be paid by the insurance company. If it is a million dollar settlement, you can imagine the impact on the insurance company and consequently, on the insurance rates. What we have said is, if the award is larger than \$250,000, the first \$250,000 has to be paid but the remainder can be structured on the remaining cost to be paid to the plaintiff and can be paid over the course of several years. This was probably the most important element in the bill with regard to insurance companies, the one element of the bill that they could tell us would, in fact, significantly reduce the continued rise in rates.

Another thing that we dealt with in the bill was the mandatory reporting of any claims made against a doctor or any medical practitioner that any claims paid by an insurance company for that podiatrist or dentist or whatever has to be reported to the Bureau of Insurance.

We also said that there had to be a mandatory disciplinary review by the appropriate board for a doctor who has three paid awards in a ten year period. This is an attempt on the part of the professions involved to help address the problem at their own level in their own professional standards.

One of the other things that we dealt with in this bill was something that was not brought to us in the coalition. As a matter of fact, it arose from the debate that we had on the floor regarding lawyers fees. There was some concern amongst people of the House that lawyers are, in fact, getting windfall profits when it comes to bringing these kinds of issues to court. What the committee did was enact a section of the bill that would limit payments on contingency fees. So, we have capped, if you will, the amounts of monies that can be paid to lawyers. The initial one is thirty-three and a third percent for the first \$100,000 which we are told is significantly lower than what they are currently being paid.

The other compromise that came out of the committee was there was some disagreement as to whether or not we should change the statute of limitations with regard to legal and medical malpractice and there were very strong arguments made on both sides. The committee agreed that those things would happen over a course of time and the effective date, I believe, is August 1, 1988.

Then the last thing that we dealt with was the question of caps. As you may recall, I was one member of the committee who stood before this body and asked your support of another malpractice bill and that malpractice bill called for three things. It called for mandatory screening panels. We also have that in the bill that is before you. It called for a cap on lawyers contingency fees. That is also incorporated into the bill you have before you. It also called for a cap on pain and suffering at \$250,000, which the amendment that is before you now, calls for. There is significant disagreement within the committee as to the benefits of that particular cap. Some of us felt it had merit, some of us felt very strongly it was imperative that it be included in the bill and others felt it ought not be included or even addressed for that matter. We were able to compromise with the provision in the bill that I feel quite comfortable with.

If you read Section 21, we require the Tort Liability Study Commission, that has been enacted by both the House and Senate, and I believe funded by the leadership and Appropriations, to address the issue, not only of caps but also of contingency fees, statutes of limitations, etc. There was an initial inclination on the committee to disregard this bill at this time, fold the entire issue into the Tort Liability Study -- we rejected that initial thought and instead decided to go with the provisions of the bill that we felt very comfortable with.

There are other provisions in the bill, including the amendment that you have before you, that have merit; however, the majority of the committee did not feel comfortable, had not been convinced, that without a doubt, this would have a positive impact on insurance rates.

I have a couple of pages of pros and cons on the viability of instituting this kind of pain and suffering cap but let me tell you from my own personal perspective -- I think the issue of placing caps on pain and suffering is a viable issue but I think it needs further study.

I do have one concern that this amendment does not address and that is, I think we need to make special exceptions or give special concern to the plight of minors. Now it might be easy, and I say might, be easier to determine what the loss of income is in the future for an adult who has a job and you know what the damage is to that person and you can calculate it, etc., but I think it is very difficult for us here today to say that, if a minor is injured permanently by an incompetent physician who is found guilty of malpractice, that the pain and suffering that child is entitled to should, in fact, be capped at \$250,000. That is not a question I am prepared to answer in the positive today. I understand some of you are. What I am asking is that we indefinitely postpone this amendment.

I think that a lot of the concerns that were raised by Representative Stetson in committee and again on the floor today have been addressed. I think the mandatory screening panels and the other provisions that we have enacted or we will (I hope) enact in this bill will go a long way to addressing the concerns that the doctors have brought to us and other related practitioners. I think they go a long way in addressing the concerns that the rest of the committee had and this legislature. I would urge you to indefinitely postpone Representative Stetson's amendment. I feel comfortable in doing that, I have supported and continue to support the other malpractice bill that is no longer before us. I really think the issue of caps needs further study and I urge you to indefinitely postpone House Amendment "A."

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening to the last two people who have responded to the amendment that was presented by Representative Stetson to the medical malpractice bill that is presently before us. It was with some interest that I listened to the last speaker and the concerns that she listed. There are some real problems out there ladies and gentlemen, some real problems with the small, rural hospitals.

The bill that is presently before us attempts to address some of those problems out there but doesn't

go far enough. The amendment that we presently have before us will give those small community hospitals and those rural areas in the State of Maine that so badly need adequate medical coverage the help that they need.

I was interested in the list of groups of people that Representative Allen quoted as supportive, called the coalition proposal. But you know not one of those groups that she mentioned involved the public sector, the consumers, the advocacy groups for the consumers, not one of those people were mentioned. Were they completely ignored in this process, was this a sweetheart deal? I am a little concerned about that.

It wasn't too many weeks ago that I read in the Sunday paper where one of the major architects of this proposal stated that this proposal really wouldn't accomplish anything. I have to disagree with that because of some of the comments that Representative Allen has made.

I agree with the screening process, although the screening process is not binding. I agree with the structured settlements, particularly for some of the smaller carriers that would be open to exposure. I certainly agree with the statute of limitations but where I disagree is that most of these provisions will not take effect until 1988. The problem is now, ladies and gentlemen, not in 1988.

The problem is that that small community hospital that is in my district has lost three physicians. Those three losses mean that my constituents are going to be deprived of medical attention or medical services that they had before. Now in order to get those services, they are going to have to travel further and some might not be able to do that.

I don't see why we are so concerned about the caps. We passed a bill earlier this session dealing with the Dram Shop Law. We put a cap at \$250,000 on that, that wasn't just per person, that was \$250,000 per carload.

I don't really know why the concerns are so great that we can't address this cap issue now and if they wanted to study it after we have adopted it, study it. If we find out the cap isn't high enough, we will move it up, but let's respond responsibly so that many of our community hospitals in this state can attract and have those physicians that your constituents need.

I would hope that the members of this body would refuse to indefinitely postpone this amendment and place this amendment on the bill so that we will have something that the hospitals, the attorneys, the physicians, and most importantly, the consumers can live with.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: As perhaps you will remember, I was one of the signers of the "Ought to Pass" Report on the last bill that we considered that also had the pre-screening panels, the contingency fees, and the caps. I also voted on that overwhelming vote. I was one of the 100 people who signed that.

Today, I am voting against this amendment. I think that we have to face the reality of what can be done in the legislature.

I think this malpractice bill that you have before you is a really good bill. It contains most

of the ingredients that you wanted, that we all wanted, all except the caps. We passed the other bill overwhelmingly in the House. It then went down to the other body and was defeated, as overwhelmingly as it was passed in this body. The reality of the situation is, if we try to put a cap on this bill and it goes down to the other body, it will probably come back in non-concurrence. I think that we face the danger of really not having any medical malpractice bill at all this year. I think that would be most unfortunate.

I think that this is a good bill, I think it is a good beginning and I think it is a good step forward. Representative Jackson has mentioned that the bill would not effectively be considered or come into law or into being until 1988. Only three sections of that bill would not become effective until 1988. The rest of the bill will become effective.

The Judiciary Committee, as you know, considered four malpractice bills this year, which really illustrates the magnitude of the problem facing the citizens of Maine. It is a problem because doctors are being billed huge premiums for malpractice insurance to the point that doctors in high risk specialties are giving up their professions. This is affecting health care in the State of Maine and will affect it much more if something is not done to control this problem.

We spent a great deal of time on this bill. I think it was amazing the groups that we did get together, the doctors, the lawyers, the hospitals, the insurance people, to work on this bill. They brought it before us. The committee worked long and hard on it and it was a compromise bill for us. Eleven of us feel that it is a very good bill.

I hope that you will indefinitely postpone this amendment so that we can take home this year a medical malpractice bill that will begin to help the people of the State of Maine.

I request a division.

The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Men and Women of the House: I wonder if the Representative from Washington has really changed her mind on the caps. I wonder if the Representative from Presque Isle has changed her mind on the caps. 100 of us in here the other day thought that the cap on pain and suffering, \$250,000, was a worthwhile measure. There were 14 who disagreed.

If we want to talk about committee process, that bill came out of the Judiciary Committee in a Minority Report but it passed 100 to 14 in this body. So I say to the Representative from Washington and to the Representative from Presque Isle -- why don't you stick by your guns, why don't you stick by your conscience, why don't you stick by us who think that the caps are very essential to the whole problem of malpractice?

I don't think we should be considering, much less debating, what the other body is doing or may do. I think we should vote our conscience in this body. I think we should vote the way we did the other day.

I am going to take a minute to read to you a letter from a woman I have never met, she is not in my jurisdiction in my district, but she did read in the paper what had happened a week ago concerning the caps on pain and suffering.

She says in part, "I am a retired doctor's wife. We are now residents of this great state. My husband is an obstetrician and gynecologist and enjoyed his specialty practice for many years until malpractice insurance rates defeated him for he was not willing to pass on the cost to his patients. His patients and he openly wept when he closed his office doors."

I think that says just what the Representative from Harrison was telling you, that there was one group that was not represented in the so-called coalition of professional liability work group and that is the consuming public.

Since Representative Allen has taken the time to go through all the good features of this coalition bill, I might point out to you that the coalition bill that was presented to the Judiciary Committee, there is precious little resemblance in the bill before us today. Let's go right down the list as Representative Allen recited them.

One -- the wrongful birth section has been changed at the behest of the lawyers because of a decision of our Supreme Court that allowed certain damages in a wrongful birth case. So, here go the rates and that provision, as initially proposed by the Professional Liability Work Group, was changed to satisfy the lawyers greed as a result of the Dillman decision.

Number two -- the structured awards which Representative Allen characterized as being the most important element to the insurance companies. Ladies and gentlemen, that was changed and it was changed at the behest of a lawyer on the committee who wanted to extend these structured awards to be payable to the estates of a plaintiff even after the plaintiff had passed away.

Number three -- that has not been changed. I might point out to you that number three addresses the doctors who are sued three times. It says nothing about the lawyers who are sued three times.

Number four -- contingent fees. In the coalition bill, that was to become effective 90 days after the passage of this act. As it now stands, it will not become effective until August 1, 1988.

Number five -- the statute of limitations on bringing actions. I submit to you that that is one of the key provisions to the whole field of malpractice liability. That has now been moved to August 1, 1988. Under the initial coalition bill, the statute of limitations on malpractice actions would have been 90 days after the passage of the act. The act, as it came to us from the professional liability work group, has been changed materially.

The good Representative from Presque Isle would have us believe that this bill that is before us without the \$250,000 cap was really the result of many months of hard work by the coalition and by the committee. I submit to you that there has been virtually a meeting of the Maine Bar Association out in the lobby of this building in the last few days. If you haven't met your lawyer, just step outside and you probably will see him out there. You will see a lawyer or two behind the glass right now, who are very much interested in the lawyer's standpoint of this bill. I see one of my brothers leaving the chamber right now.

The fact of the matter is, the bill as it is before you, is all one way. The people are left hanging. I ask you to give them the benefit of the \$250,000 cap and I ask you to vote against the motion to indefinitely postpone amendment "A."

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I, too, would ask you to oppose the motion to indefinitely postpone the amendment but for different reasons.

First of all, I personally would like to commend the professional people that gathered together to introduce the so-called compromise proposal. I would like to commend the hard working Judiciary Committee for coming forward with the bill we have before us. Having worked on a committee that deals with coalitions, that deals with these important problems, I do respect their hard work, their intent, and the finished product.

Right now, as I understand it, we are debating the amendment and not the bill. The amendment is quite clear and very simple. I would like to address my concerns to the amendment because I believe the bill itself is fine, a very good beginning to deal with a very serious problem.

The amendment reads, "In any action for professional negligence, the court shall instruct the jury that if the jury finds a verdict awarding damages, it shall in its verdict specify the applicable amount of special and general damages upon which the award is based and the amount assigned to each element including, but not limited to, medical expenses, loss of earnings, impairment of earning ability, pain and suffering. In any action for professional negligence, no verdict may award damages for pain and suffering which exceeds the sum of \$250,000." This is all this amendment is talking about -- directing the verdict and putting a cap of \$250,000, which has been proven in other states to be constitutional and is currently higher than any other present pain and suffering verdict.

I speak to this out of some information that I have been able to gather over these past few weeks. The American Medical Association Study has shown that there has been a saving of 12 percent to the increase of the cost of the premium to the states that have a cap on pain and suffering. There are other things involved in this savings but one of the important ingredients in all of the studies and findings is, indeed, the cap.

The Rand Institute Study showed that there was a 19 percent saving on litigation where states have a cap and, in the Pete Marwick Accounting Firm in Pennsylvania in 1982, (so I am sure this statistic is a bit old and it may be even better now) says that there was an 11 percent reduction in the increase of raising the premium in those states that had a cap. That is what we are talking about now -- the cap.

Currently, there are physicians who I believe are practicing in terror. They practice defensive, almost angry, intrusive services to protect themselves. We all pay for that through our insurance and the discomfort of going through these extra tests and so forth. I say to you that this amendment presently before us makes sense. In no way, it seems to me, does this amendment endanger the bill itself.

If you deal with the amendment, accept it or reject it, but the bill that is good, and a fine beginning, should be left untampered with in the sense that, if you don't include this amendment, then the bill still stands. There shouldn't be any fear in anybody's mind that we are dealing with the document of the bill itself. We are only talking

about the amendment and the sense that it makes and the fact that we, as a body, should send a direct signal to those people who are studying the issue, that we believe that putting a cap on damages makes sense.

That is what I really feel we should be doing here today — sending a clear message to those people who are studying it, that we do care, that we are concerned. We have to put a stop to this because, in the long run, we will all be suffering.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Cooper.

Representative COOPER: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the good Representative from Portland that doing something about insurance rates for doctors is an absolute must at this time. Unfortunately, we disagree on how to go about that. I do have some concerns about this amendment defeating the bill, and that is, I think perhaps the highest priority that this legislature should have is enacting legislation to deal with malpractice insurance.

I would remind you that the other bill that we had before us that has been discussed that we passed with such a majority has died as will this bill with an amendment on it.

The testimony that we received about caps is somewhat in conflict with the previous testimony that you have heard. We had somebody there from the insurance industry and we had asked them about caps. They felt that it would make no difference in this case, that the case for caps had not been proven, which is one of the reasons why we had asked for it to be studied and reported back to us. They actually had a fear that the \$250,000 cap becomes a floor that is used, and they indicated that in other states that has happened, where before somebody might get a settlement for \$100,000, but since there is a \$250,000 figure there, somehow that becomes the floor and the costs actually go up.

I have taken notes on what everybody has said and there is just a lot of bunk floating around. I won't bother to respond to them at this time. I think the important thing is for us to pass a malpractice insurance bill, one that will lower the rates. The important things you have in the bill will do that.

I would ask you to vote for the indefinite postponement of the amendment so that we can do something to help all of our citizens out there.

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: You have heard the pros and the cons of this bill and I would like to give you a different perspective.

It would be my preference that the matter of medical malpractice be folded into the study of Tort's as is proposed for all other professions and businesses. Malpractice claims are of grave consequence and an earlier date for dealing with them seems to be inevitable.

In speaking for L.D. 2400, I would point out that the crisis in liability insurance is not peculiar to Maine, it is a nationwide concern which is being addressed in state legislative bodies throughout the country as you are all well aware. In my opinion, the crisis has been building without being addressed for more years than I care to contemplate. The blame cannot be laid at any one door. The insurance companies must bear a share, the attorneys are not

without guilt and the public must bear a good percentage of the tab because greedy individuals are willing to gamble, rather than take a rational approach to settlements.

That having been said, for the most part, the statements made in the bill are those that are in agreement by the insurance companies, the medical profession and the trial lawyers and the committee's dedication to making this bill as encompassing as possible. Not all members of any of the groups found the ultimate outcome to be as palatable as they would like. Granted, there can be the egregious case where hardships may be imposed. However, all too often this body and other legislative bodies cater to the minority situation rather than the majority or the norm. In doing so, we often penalize, in some measure, the ordinary or frequent occurrence. This bill is no different, it is not perfect, but it is intended to offer protection to the aggrieved individual. As in all our attempts to correct a perceived injustice, we may not be achieving perfection but we are taking certain steps in this bill to put in place a method calculated to start corrective measures.

The most significant factor in the bill is a pretrial panel proposal which is a mediation process to eliminate the necessity for court time and litigation of suits of a frivolous nature and those that can be negotiated by findings of evidence.

The bill, as it was originally presented to the committee, was thoughtfully put together. The committee spent many hours honing the five points to perfect the process. We were particularly sensitive to the discovery timetable, the wrongful birth section, structured awards, and a formulation of the pretrial screening committee. We dealt extensively with the importance of the subject matter and the importance of the results at every step of our deliberations.

I know that not any one of us are happy with everything but we do feel that we have crafted a bill that is as nearly perfect as we were able to make it. I urge you to support it and to vote for indefinite postponement of the amendment.

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 Washington, Representative Allen, that House Amendment "A" be indefinitely postponed.

The Chair recognizes the Representative from Portland, Representative Nelson.

Representative NELSON: I request permission to pair my vote with the Representative from Bangor, Representative Murray. If Representative Murray were present and voting, he would be voting yes; I would be voting no.

The SPEAKER: The pending question before the House is the motion of the Representative from Washington, Representative Allen, that House Amendment "A" be indefinitely postponed. Those in

favor will vote yes; those opposed will vote no.

90 having voted in the affirmative and 46 in the negative with 13 being absent and 2 paired, the motion did prevail.

(See Roll Call No. 317)

Representative Dexter of Kingfield offered House Amendment "B" (H-731) and moved its adoption.

House Amendment "B" (H-731) was read by the Clerk.

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

Representative MACBRIDE: Mr. Speaker, I move that House Amendment "B" be indefinitely postponed.

I think probably in the eight years that I have been here, this is the first time I have risen to oppose my good friend from Kingfield but I am doing so today.

In this amendment which he has presented, there are a number of the sections of the bill that he would like to have be effective 90 days after adjournment of the session.

In the original coalition bill that came forth, that effective date was July 1, 1987. The coalition had a very good reason for establishing that date and I am sure the reason is this -- they really felt that there were cases out there pending or there were people who perhaps were planning to bring suit and that 90 days would not be enough time for people to decide what they want to do with their suit. So, out of deference to these people and to give them time to go forward with whatever they wanted to do, that date was set. Later, as you know, that date was amended to give a longer length of time. I do think the additional length of time is important.

I do want you to realize that this bill, L.D. 2400, that we are discussing today is supported very wholeheartedly, unamended, by both the Maine Hospital Association and the Maine Medical Association. They really feel it is that important.

I request a division.

The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: You have heard people say that we have to move now, we can't wait until 1988. I think we ought to put this amendment right on the bill to put the bill in place 90 days after the session and not wait until August, 1988. If you believe in the bill, you believe in this amendment.

The SPEAKER: The pending question before the House is the motion of Representative MacBride of Presque Isle that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

70 having voted in the affirmative and 44 in the negative, the motion did prevail.

Subsequently, the Bill was passed to be engrossed in concurrence.

Non-Concurrent Matter

An Act to Restore Retirement Credit to Employees Previously Receiving such Credit (H.P. 1642) (L.D. 2320) which was Passed to be Enacted in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-663))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-663) and Senate Amendment "A" (S-531 in non-concurrence.

The House voted to recede and concur.

ORDERS OF THE DAY

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

The Chair laid before the House the first matter of unfinished business:

An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 to Provide Funds for School Construction Costs to Meet the Requirements of the Education Reform Act and for the Construction of an Activity Building at Augusta Mental Health Institute (BOND ISSUE)(H.P. 1695) (L.D. 2388)

TABLED - April 14, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

Representative SPROUL: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to remind members of this body that several months ago we voted on an issue to prohibit the combining of unlike bond issues, which this does. You voted in favor of that measure at that time. Opponents of that measure at that time said we didn't need it because we had the power right here in this body not to combine unlike bond issues. I hope we take that power right now and vote no on this.

Mr. Speaker, I ask for 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 passage to be enacted. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House is necessary. Those in favor will vote yes; those opposed will vote no.

104 having voted in the affirmative and 32 in the negative with 15 being absent, the motion did prevail.

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

PAPER FROM THE SENATE

Subsequently the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(See Roll Call No. 318)

The Chair laid before the House the second matter of unfinished business:

An Act to Establish the Maine Business Opportunity and Job Development Program (BOND ISSUE) (S.P. 952) (L.D. 2387) (H. "A" H-703)

TABLED - April 14, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the third matter of unfinished business:

An Act to Authorize a General Fund Bond Issue in the Amount of \$12,000,000 for Sewer Treatment Facilities (BOND ISSUE) (H.P. 1617) (L.D. 2288) (C. "A" H-687)

TABLED - April 14, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 127 voted in favor of same and 8 against, and accordingly the bill was passed to be enacted, signed by the Speaker and Sent to the Senate.

The Chair laid before the House the fourth matter of unfinished business:

An Act to Authorize the Issuance of a Bond not Exceeding \$5,000,000 for the Financing of the Maine Inland Fisheries and Wildlife Acquisition Fund (BOND ISSUE) (S.P. 695) (L.D. 1781) (C. "A" S-481)

TABLED - April 14, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

Representative Jacques of Waterville requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House is necessary. Those in favor will vote yes; those

opposed will vote no.

84 having voted in the affirmative and 55 in the negative with 12 being absent, the Bond Issue failed of enactment.

(See Roll Call No. 319)

The Chair laid before the House the fifth matter of unfinished business:

An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Energy Improvements in State Facilities (BOND ISSUE) (H.P. 1590) (L.D. 2243) (C. "A" H-688)

TABLED - April 14, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

Representative Diamond of Bangor requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House is necessary. Those in favor will vote yes; those opposed will vote no.

81 having voted in the affirmative and 58 in the negative with 12 being absent, the Bond Issue failed of enactment.

(See Roll Call No. 320)

The Chair laid before the House the sixth matter of unfinished business:

An Act to Authorize a General Fund Bond Issue in the Amount of \$3,100,000 for Armory Expansion, Rehabilitation and Construction (BOND ISSUE) (S.P. 925) (L.D. 2312) (C. "A" S-488)

TABLED - April 14, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind the members of the House that this bond issue is a 75/25 match. The state's participation in it is \$3,100,000 at 25 percent and it draws 75 percent federal money.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 121 voted in favor of same and 18 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

PASSED TO BE ENGROSSED

AS AMENDED

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Coastal Access, Harbor Improvements, Maine State Ferry Improvements and Marine Laboratory Improvements (S.P. 895) (L.D. 2250) (H. "A" H-727 to C. "B" S-490)

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

On motion of Representative Bell of Paris, the House reconsidered its action whereby L.D. 2250 was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "B" (S-490) as amended by House Amendment "A" (H-727) was adopted.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "A" to Committee Amendment "B" was adopted.

The same Representative offered House Amendment "B" (H-737) to Committee Amendment "B" and moved its adoption.

House Amendment "B" to Committee Amendment "B" was read by the Clerk.

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

Representative BELL: Mr. Speaker, Men and Women of the House: We left harbor off from Boothbay in the question when we tried to amend it the last time. I apologize for the error.

Subsequently, House Amendment "B" to Committee Amendment "B" was adopted.

On motion of Representative Bell of Paris, House Amendment "A" to Committee Amendment "B" was indefinitely postponed.

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

(At Ease)

The House was called to order by the Speaker.

On motion of Representative Higgins of Scarborough, having voted on the prevailing side, the House reconsidered its action whereby An Act to Authorize the Issuance of a Bond not Exceeding \$5,000,000 for the Financing of the Maine Inland Fisheries and Wildlife Acquisition Fund (BOND ISSUE) (S.P. 695) (L.D. 1781) (C. "A" S-481) failed of enactment.

On motion of Representative Carter of Winslow, under suspension of the rules, the House reconsidered its action whereby the L.D. 1781 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-736) and moved its adoption.

House Amendment "A" (H-736) was read by the Clerk.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: This is a technical amendment to correct the reference to the Maine Revised Statutes.

Subsequently, House Amendment "A" was adopted.

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

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

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act to Establish the Maine Business Opportunity and Job Development Program (BOND ISSUE) (S.P. 952) (L.D. 2387) (H. "A" H-703) which was tabled earlier in the day and later today assigned pending passage to be enacted.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 21 voted in favor of same and 101 against, the Bond Issue failed of enactment.

Sent up for concurrence.

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON BUSINESS AND COMMERCE

April 14, 1986

The Honorable John L. Martin
Speaker of the House

112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Business and Commerce during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	59
Unanimous reports	54
Leave to Withdraw	16
Ought to Pass	8
Ought Not to Pass	2
Ought to Pass as Amended	11
Ought to Pass in New Draft	17
Divided reports	5

Respectfully submitted,

S/Beverly Miner Bustin S/Joseph C. Brannigan
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON EDUCATION

April 14, 1986

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Education during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	24
Unanimous reports	23
Leave to Withdraw	5
Ought to Pass	3
Ought Not to Pass	1
Ought to Pass as Amended	9
Ought to Pass in New Draft	5
Divided reports	1

Respectfully submitted,

S/Larry M. Brown S/Ada K. Brown
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

April 11, 1986

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Energy and Natural Resources during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	38
Unanimous reports	27
Leave to Withdraw	5
Ought to Pass	3
Ought Not to Pass	6
Ought to Pass as Amended	7
Ought to Pass in New Draft	6
Divided reports	11

Respectfully submitted,

S/Ronald E. Usher S/Michael H. Michaud
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON HUMAN RESOURCES

April 15, 1986

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Human Resources during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	40
Unanimous reports	38
Leave to Withdraw	13
Ought to Pass	7
Ought Not to Pass	0

Ought to Pass as Amended	7
Ought to Pass in New Draft	11
Divided reports	2

Respectfully submitted,

S/N. Paul Gauvreau	S/Merle Nelson
Senate Chair	House Chair

Was read and ordered placed on file.

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON LEGAL AFFAIRS

April 14, 1986

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Legal Affairs during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	26
Unanimous reports	24
Leave to Withdraw	7
Ought to Pass	1
Ought Not to Pass	0
Ought to Pass as Amended	9
Ought to Pass in New Draft	7
Divided reports	2

Respectfully submitted,

S/Richard L. Trafton	S/Polly Reeves
Senate Chair	House Chair

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON LOCAL AND COUNTY GOVERNMENT

April 15, 1986

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Local and County Government during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	11
Unanimous reports	9
Leave to Withdraw	4
Ought to Pass	0
Ought Not to Pass	0
Ought to Pass as Amended	4
Ought to Pass in New Draft	1

Divided reports	2
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1 Committee Bill Pursuant to Joint Order H.P. 1316

14 (County Budgets) Resolves Pursuant to Joint Order H.P. 1316

Respectfully submitted,

S/John L. Tuttle, Jr.	S/Edward A. McHenry
Senate Chair	House Chair

Was read and ordered placed on file.

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

ENACTOR

Emergency Measure

LATER TODAY ASSIGNED

An Act to Maintain the Sanford Unemployment Office (S.P. 942) (L.D. 2360)

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

Representative Beaulieu of Portland requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of the members present and voting is necessary. Those in favor will

vote yes; those opposed will vote no.

93 having voted in the affirmative and 46 in the negative with 12 being absent, the bill failed of enactment.

(See Roll Call No. 321)

Representative Beaulieu of Portland, having voted on the prevailing side, moved the House reconsider its action whereby the bill failed of enactment.

On motion of the same Representative, tabled pending her motion to reconsider and later today assigned.

PASSED TO BE ENACTED

An Act Relating to Commercial Vehicles (S.P. 914) (L.D. 2282) (H. "A" H-733 to C. "A" S-484)

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

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

PASSED TO BE ENACTED

An Act to Restore Retirement Credit to Employees Previously Receiving such Credit (H.P. 1642) (L.D. 2320) (C. "A" H-663; S. "A" S-531)

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

On motion of Representative Diamond of Bangor, the following was removed from the Tabled and Unassigned Matters: Bill "An Act to Clarify the Application of Water Quality Standards to Hydroelectric Projects" (H.P. 1440) (L.D. 2032)

- In House, Majority "Ought to Pass" in New Draft (H.P. 1495) (L.D. 2107) Report of the Committee on Energy and Natural Resources read and accepted and the New Draft Passed to be Engrossed in the House on March 3, 1986.

- In Senate, Bill and Accompanying Papers Recommended to the Committee on Energy and Natural Resources in non-concurrence.

TABLED - March 13, 1986 by Representative DIAMOND of Bangor.

PENDING - Further Consideration.

On motion of Representative Michaud of Medway, the House voted to recede.

The same Representative offered House Amendment "C" (H-738) and moved its adoption.

House Amendment "C" (H-738) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: Basically, what this amendment does is it removes the retroactivity that was in the original bill. It also takes out the provision where

the committee has to approve the rules and regulations under the hydro law, since we already adopted that in the earlier bill that was passed to be enacted.

I talked to most of the members of the Energy and Natural Resources Committee. I haven't gotten 12 of them yet, the one's I have talked to, there is no problem with this amendment.

Subsequently, House Amendment "C" was adopted.

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

The following item appearing on Supplement No. 16 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass

Pursuant to Joint Order (H.P. 1316)

Representative McHENRY from the Committee on Local and County Government on Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) (H.P. 1707) (L.D. 2404) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1316)

Report was read and accepted. Under suspension of the rules, the bill was read twice, passed to be engrossed and sent up for concurrence.

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

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

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

ORDERS

On motion of Representative McGOWAN of Canaan, the following Joint Resolution: (H.P. 1708) (Cosponsors: Representatives JACQUES of Waterville, GWADOSKY of Fairfield and Speaker MARTIN of Eagle Lake)

JOINT RESOLUTION REQUESTING THE BUREAU OF PURCHASES AND STATE AGENCIES TO GIVE PREFERENCE TO GOODS MANUFACTURED OR PRODUCED IN MAINE AND THE UNITED STATES

WHEREAS, Maine and the United States are confronted with products manufactured or produced outside the United States in nations, many of which, significantly subsidize their producers to a much greater extent than subsidies provided to producers in the United States; and

WHEREAS, subsidized foreign manufacturers and producers are marketing products in the United States and Maine at prices, that in many cases, are significantly less than the prices that United States manufacturers and producers can charge; and

WHEREAS, the price differential in United States markets between foreign produced goods and United States produced goods is achieved by the size of foreign subsidies and the subsistence wages paid to foreign workers; and

WHEREAS, statutory preference requirements for Maine and United States produced goods have encountered challenges in the courts for violation of the interstate and foreign commerce clauses in the United States Constitution; and

WHEREAS, a previous statutory preference given to Maine producers resulted in the retaliation of other states against Maine producers which seriously hurt producers in this State; and

WHEREAS, a statutory preference provision would also result in retaliation by foreign nations against Maine goods sold or marketed in international trade; and

WHEREAS, there is a need to help Maine businesses to compete in the Maine market with foreign producers; and

WHEREAS, there are many cases in which the necessary increase in cost to purchase Maine produced goods or goods produced in the United States are not substantive and the benefits significantly outweigh any disadvantages; now, therefore, be it

RESOLVED: That We, the Members of the 112th Legislature, recommend and urge the Governor, the State Purchasing Agent, all departments and agencies of State Government and the University of Maine System, to the greatest extent possible, to give preference in their purchase of goods, materials and supplies, first to goods produced or manufactured in Maine and second to goods produced or manufactured in the United States; and be it further

RESOLVED: That suitable copies of this resolution be prepared and transmitted forthwith by the Secretary of State to the Governor, the Commissioner of Finance and Administration, the State Purchasing Agent, the directors and commissioners of departments and agencies of State Government and to the Chancellor and Board of Trustees of the University of Maine System.

Was read and adopted and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Maintain the Sanford Unemployment

Office (S.P. 942) (L.D. 2360) which was tabled earlier in the day and later today assigned pending the motion of Representative Beaulieu of Portland that the House reconsider whereby L.D. 2360 failed of enactment.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Beaulieu of Portland, that the House reconsider its action whereby L.D. 2360 failed of enactment. Those in favor will vote yes; those opposed will vote no.

61 having voted in the affirmative and 34 in the negative, the motion to reconsider did prevail.

Representative Beaulieu of Portland requested a roll call vote on enactment.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of the House is necessary. Those in favor will vote yes; those opposed will vote no.

92 having voted in the affirmative and 46 in the negative with 13 being absent, the bill failed of enactment.

Sent up for concurrence.

(See Roll Call No. 322)

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

PASSED TO BE ENACTED

An Act to Amend and Improve the Education Laws of Maine (S.P. 957) (L.D.2399) (S. "B" S-526)

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

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

PAPER FROM THE SENATE

The following Joint Resolution: (S.P. 961)

JOINT RESOLUTION REGARDING OFFERING 4-YEAR
BACCALAUREATE PROGRAMS AT VARIOUS CAMPUSES
OF THE UNIVERSITY OF MAINE

WHEREAS, the Legislature now has before it for consideration L.D. 2311, "AN ACT to Authorize a General Fund Bond Issue in the Amount of \$7,700,000 for Various Projects at the University of Maine," which as amended, provides for a General Fund Bond

issue of \$12,100,000; and

WHEREAS, there is an amendment to L.D. 2311 to increase the bond issue by \$4,400,000 for construction of classroom and laboratory facilities in the Lewiston-Auburn area to house programs administered by the University of Southern Maine; and

WHEREAS, there is sentiment to offer 4-year baccalaureate programs in the Lewiston-Auburn and York County areas and additional 4-year programs in the Augusta area; and

WHEREAS, the costs involved in providing such new and additional 4-year baccalaureate programs is not known at this time; and

WHEREAS, the 112th Legislature will be meeting in special session later this year; now, therefore, be it

RESOLVED: That We, the Members of the 112th Legislature now assembled, do hereby respectfully request that the Board of Trustees of the University of Maine conduct a study of the capital costs involved in offering 4-year baccalaureate programs at locations in the Lewiston-Auburn and York County areas and of the Feasibility of designating the University of Maine at Augusta as a baccalaureate institution offering 2-year and 4-year programs; and be it further

RESOLVED: That the Board of Trustees report its findings to the 112th Legislature at the next meeting of the Legislature in special session this year; and be it further

RESOLVED: That the Legislature will make its decision on the university bond issue to be submitted to the voters at that time after having received the necessary information on which to base its decision.

Came from the Senate, read and adopted.

Was read.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I move that S.P. 961 be indefinitely postponed and request a roll call.

Ladies and Gentlemen of the House: I am against this Resolution to delay the original bond issue in the amount of \$7,700,000. This idea of a four year baccalaureate program in the Lewiston-Auburn and York county areas, an additional four year program in the Augusta area should not even be considered now or when we come in later for a special session.

I want the original bond issue to pass now and I feel it is my duty to try and defeat this Resolution that allows us to delay it until later. I am sure the trustees and the Visiting Committee have already studied the situation and, if they had thought it was feasible at this time, it would have been included in their report. I think we should pass the original \$7,700,000 now, today.

I really believe we might lose the whole amount for the University if we stall on voting for it today. I also think the people of this state will agree that we have already spent enough money with what has already been proposed to this date.

I hope that you will vote to indefinitely postpone this Resolution.

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

Representative HANDY: Mr. Speaker, Members of the House: This Resolution will not, in any way, impede the progress of the General Fund bond issue which has been proposed. When we come back into a special session, time will not have passed for this bond issue to be placed on the ballot.

I have to disagree with my Education Committee House Chair, with respect to the legislature endorsing any of the suggestions in this with the respect to the four year baccalaureate degree programs, be they in York, Augusta, or Lewiston-Auburn areas. This merely empowers and asks the board to look at the issue and report back to us. This is not making policy here, this is merely asking that policy making body to make that determination. I am sure they will make that determination which is in the best interests of the University as a whole.

I would ask you to oppose the motion that is before us, which is to indefinitely postpone, so that we can pass this Resolution.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I, too, hope you oppose the motion to indefinitely postpone. I'm sure you recall the debate the other day on the Appropriations Committee Majority Report, which included a \$4.4 million bond issue for a classroom facility in the Lewiston-Auburn area. At the University of Southern Maine, we will need to provide necessary programs that have been clearly deemed necessary in two to three years of study and discussion. In local referendums back home, the need is still there, it has got to be addressed.

The problem we run into here, we have got a Majority Report that has been accepted and is up for enactment as a bond issue. The other day during the debate the concern expressed from those who did not wish to include this particular \$4.4 million in this particular package. In that debate, you heard a great deal of discussion as to the sympathy for the problem, the recognition that the services are needed and that sort of thing. It is clear to me there was some people that simply needed more information, the comments about the Board of Trustees not having included that specific item in their bond package was mentioned. It became very clear that what might be a good idea would be to ask this legislature to hold onto this issue just until the special session. Then, ask the Board of Trustees to come back to us at that time and recommend to us what they think we ought to do with this bond package as it relates to that additional \$4.4 million. That is all we are asking them to do as it relates to that issue.

Concerns have also been expressed in the halls in areas like York County that have had concerns about University services in Augusta and what we thought we would do is propose this Resolution to have some of those concerns addressed. There will be another document, which is a Joint Order, which will essentially hold that bill in this legislature until the special session.

This particular document that we are dealing with right now instructs the trustees to come back to us with those recommendations, their feelings on the

inclusion of the \$4.4 million in the bond package, also their determination on how they would approach those needs that have had concerns -- areas like York and Kennebec County as they relate to the University of Southern Maine. That is what this Joint Resolution does.

Then I hope that we will go on and pass the Joint Order which will hold that bond issue in this legislature until the trustees have had a chance to make their recommendations to you.

I think it covers a lot of the concerns that were mentioned. I think what is ultimately going to happen and we all know it is, this bond issue, when passed, will go to the voters in the general election. The holding on to this bill until the special session will not affect that one way or the other, regardless what decision is reached at the special session.

There has been a lot of concern expressed by people in my area and other areas in southern Maine and I think this is an opportunity to have some of those concerns addressed before we are asked to make a final decision on enactment. It is a very reasonable alternative. I think when you consider the issue as it relates specifically to Lewiston-Auburn, over three years of effort and study, and analysis, there has been a lot of groundwork laid. The trustees certainly have all of that information and have a history of supporting the concept. It is an opportunity to find out directly from them their opinion on the subject.

I think it is a very good compromise. I think it can avoid a tough fight at enactment. It will simply put this inevitable decision off for a month and a half or so. I really would encourage you to vote for this Joint Resolution today and oppose the motion to indefinitely postpone.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Very briefly, with all due respect to the Chairman of the Education Committee, I am wondering whether her presentation was a representation as the Chairman of the Education Committee or whether it was as a member of an area that has access within seven or eight miles to several opportunities within the University system. I am also wondering if she would consider the "have nots."

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The only concern I have on something like this is, it is the 15th day of April and we don't know when we are coming back. We could be coming back maybe the second or third week in May. Are we giving the trustees enough time to evaluate? I think, in reading this Resolution, is that it is something that is going to take them more than a month to evaluate. That is the problem that I have with this. I understand that they have looked at this stuff but from what I am hearing, people want programs ready to go when they come back here in May.

The way this Joint Resolution reads is, they are going to have to have some ideas on what they should be doing. I am just wondering whether a month is enough time to act on this.

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

Representative NADEAU: Mr. Speaker, Men and

Women of the House: To answer the concerns of the good Representative from Portland -- as I mentioned, the issue of the facility, specifically regarding the facility in Lewiston and Auburn, it is basically the program that the trustees came up with that was defeated in the local referendums. The basic issue was how to fund it. The question then was that \$2 million of it would be funded with local property taxes and that was the question that was defeated at the polls. The only other option in order to meet those needs in the Lewiston-Auburn area is to have state bonds take care of the capital needs. The studies have been done, the information is there.

I think what the trustees ought to address to this legislature is whether they concur that this particular project ought to be included in this particular bond package. The background work has been done, the information is solid. I don't suspect that is a problem to them. I think the time will be ample for them to answer those concerns. They will be meeting in May, they have a meeting scheduled presently, and my guess is, our special session will be later than that.

As far as the other contents of the Resolution, I don't see any problem with their coming back to this legislature with a plan or a suggestion on how they intend to address the concerns of extended services in York County and Kennebec County. That is something that they have already been charged to do. There is a community college study that is being presented to them in May and the University of Southern Maine has already done some work on it. They are going to come back with some recommendations and obviously, if they haven't got enough information and data to make any conclusions, that is precisely what they will return.

I am saying, give the trustees an opportunity to comment on this subject. As an example, it is not going to change things any if we pass this original bond issue in June, it still goes to the voters in November. It has absolutely no effect on the ultimate outcome. There is a majority of the legislature in both Houses that said this particular bond issue ought to be included in this package. There are some that say that the trustees ought to have a role in making that determination. I am trying to give the board that opportunity.

I think they will have ample time and, if they do not have ample time, I am certain that they will not hesitate to tell us that.

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 Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I hate to hold this up on a night like this but I just want to emphasize the fact that if per chance, the trustees don't come back with that plan, I would hope that this legislature does not feel that they are going to hold their feet to the fire. One month is a pretty short time to come back with a proposal for York County, Auburn-Lewiston and for Augusta. I would hope that we take

that into consideration.

The SPEAKER: The pending motion before the House is the motion of the Representative from Gorham, Representative Brown, that the Resolution be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

54 having voted in the affirmative and 82 in the negative with 15 being absent, the motion to indefinitely postpone did not prevail.

Subsequently, the Resolution was adopted in concurrence.

(See Roll Call No. 323)

UNFINISHED BUSINESS

The Chair laid before the House the seventh matter of unfinished business:

An Act to Authorize a General Fund Bond Issue in the Amount of \$12,100,000 for Various Projects at the University of Maine (BOND ISSUE) (H.P. 1639) (L.D. 2311) (C. "A" H-697)

TABLED - April 14, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Carter of Winslow, recommitted to the Committee on Appropriations and Financial Affairs in non-concurrence and sent up for concurrence.

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

PAPERS FROM THE SENATE

Non-Concurrent Matter

An Act Regarding Utility Assessments (H.P. 1205) (L.D. 1712) which was Passed to be Enacted in the House on February 28, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-529))

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Reduce the Burden of Property Taxes on Persons who are Elderly (H.P. 1212) (L.D. 1719) which was Passed to be Enacted in the House on March 12, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-557))

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Encourage Employers to Assist their Employees in Meeting Their Child Care Needs and Expenses (H.P. 1329) (L.D. 1864) which was Passed to be Enacted in the House on March 20, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-579))

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

The House voted to recede and concur.

Non-Concurrent Matter

RESOLVE, to Permit Edgar Warren to Sue the State for Compensation for Injuries Incurred While He was a Ward of the State (H.P. 1377) (L.D. 1940) (Having previously been passed to be Engrossed as amended by Conference Committee Amendment "A" (S-487))

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

On motion of Representative Baker of Portland, tabled pending further consideration and later today assigned.

The following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Non-Concurrent Matter

An Act to Establish a Toll-free Statewide Hot Line for Victims of Sexual Assault and Domestic Violence (S.P. 796) (L.D. 2003) which was Passed to be Enacted in the House on March 17, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-407))

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Amend and Clarify the Statutes Governing Control of Hazardous Air Pollutants (H.P. 1473) (L.D. 2072) which was Passed to be Enacted in the House on March 4, 1986.

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act Requiring Fiscal Impact Statements Describing the Costs and Benefits Associated with Each Legislative Document and Agency Rule that Affect Political Subdivisions of the State (H.P. 1523) (L.D. 2143) which was Passed to be Enacted in the House on March 12, 1986.

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act Allowing Licensees to Purchase Liquor from Agency Liquor Stores if Licensee is Located more than 20 Miles from State Liquor Stores (H.P. 1554) (L.D. 2192) which was Passed to be Enacted in the House on March 20, 1986.

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Provide for a Study of Excise Taxes on Watercraft (H.P. 1648) (L.D. 2325) which was Passed to be Enacted in the House on April 10, 1986.

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

The House voted to recede and concur.

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

PAPERS FROM THE SENATE

Non-Concurrent Matter

An Act Relating to the Sales of Extended Cable Television Services (Emergency) (H.P. 1649) (L.D. 2326) which was Passed to be Enacted in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by House Amendment "A" (H-673))

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

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Authorize the Payment of Retention and Recruitment Stipends in State Government (Emergency) (H.P. 1676) (L.D. 2362) which was Passed to be Enacted in the House on April 12, 1986.

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

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

Non-Concurrent Matter

An Act to Exempt from the Sales Tax Law Sales to Nonprofit Organizations Licensed as Boarding Care Facilities by the Department of Human Services Whose Exclusive Purpose is the Providing of Residential Care and Treatment Facilities for Persons Suffering from Alzheimers Disease or Related Disorders (Emergency) (S.P. 947) (L.D. 2374) which was Passed to be Enacted in the House on April 12, 1986.

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

The House voted to recede and concur.

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

PAPER FROM THE SENATE

The following Joint Resolution: (S.P. 962)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT
AND THE CONGRESS OF THE UNITED STATES TO
ESTABLISH AN EMERGENCY BOARD TO SETTLE THE
RAILROAD WORKERS' STRIKE IN MAINE

WE, Your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Twelfth Legislative Session, now assembled, most respectfully request and petition the President of the United States and the Congress of the United States, as follows:

WHEREAS, during the protracted railroad workers' strike, resulting from irreconcilable differences between Guilford Transportation Industries, Inc., and members of the Brotherhood of Maintenance of Way Employees; and

WHEREAS, mounting safety problems exist, resulting from trains carrying toxic material passing through rural and urban countryside, which threatens the safety of the citizenry; and

WHEREAS, the economic situation has worsened and the railroad strike is having a direct and detrimental effect on Maine businesses and industries, to the extent that one large paper company has laid off a substantial number of employees; and

WHEREAS, the harmful effect on the railroad workers is as substantial as the harm on Maine's industry as a whole, causing a detrimental economic and psychological impact on almost 1,000 railroad workers; and

WHEREAS, this group of Maine union members, a union consisting of only 110 employees, has provided the impetus for a possible nationwide strike; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully request and petition that the state governments of all states affected and the Federal Government apply pressure on the Guilford Transportation Industries, Inc., to bargain in good faith with the respective unions involved in this dispute, and to reach an agreement in order to resolve this difficult and tension-filled situation; and be it further

RESOLVED: That copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable Ronald W. Reagan, President of the United States, the Honorable George Bush, President of the Senate, and the Honorable Thomas P. O'Neill, Jr., Speaker of the House of Representatives of the Congress of the United States, and each Member of the Senate and House of Representatives in the Congress of the United States from this State; the United States Department of Transportation; and the New England Governors.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

(Off Record Remarks)

The following item appearing on Supplement No. 19 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Joint Order: (S.P. 960)

WHEREAS, the Legislature now has before it for consideration L.D. 2311, "AN ACT to Authorize a General Fund Bond Issue in the amount of \$7,700,000 for various projects at the University of Maine," which, as amended, provides for a General Fund Bond issue of \$12,100,000; and

WHEREAS, there is sentiment to offer 4-year baccalaureate programs in the Lewiston-Auburn and York County areas and additional 4-year programs in the Augusta area; and

WHEREAS, the costs involved in providing such new and additional 4-year baccalaureate programs is not known at this time; and

WHEREAS, the Legislature by joint resolution, has requested that the Board of Trustees of the University of Maine conduct a study of those costs and report its findings to the 112th Legislature at its next meeting in special session this year; and

WHEREAS, the 112th Legislature will be meeting in special session later this year; now, therefore, be it

Ordered, the House concurring, that H.P. 1639, L.D. 2311, Bill "AN ACT to Authorize a General Fund Bond Issue in the Amount of \$7,700,000 for Various Projects at the University of Maine" and its accompanying papers be held over by the 112th Legislature to its next meeting in special session this year.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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

PAPER FROM THE SENATE

The following Joint Resolution: (S.P. 963)

JOINT RESOLUTION IN TRIBUTE TO THE TOWN OF GORHAM ON ITS 250TH ANNIVERSARY

WHEREAS, on the western shore of the beautiful Presumpscot River to the south of Sebago Lake virgin land beckoned to be cleared and settled; and

WHEREAS, following the Narragansett War of 1728, soldiers and their heirs were granted this land they called Narragansett No. 7; and

WHEREAS, Captain John Phinney and his son lead the way up this waterway to make the first clearings on Fort Hill; and

WHEREAS, following these courageous pioneers, Gorhamtown was founded in honor of Captain John Gorham and became incorporated in 1764; and

WHEREAS, the historic development of this proud community will be celebrated on May 24 to May 31, 1986, the 250th anniversary of the Town of Gorham; now, therefore, be it

RESOLVED: At a time when the inhabitants of Gorham pause to reflect on their rich heritage and to commemorate the close of two and one half centuries of progressive development in the life of their community, that we, the members of the 112th Legislature of the great and sovereign State of Maine, now assembled in Second Regular Session, join this grand celebration to congratulate the Town of Gorham on its excellent record of achievement and offer our continued support and encouragement for the years ahead; and be it further

RESOLVED: That copies of this resolution be prepared and presented to the appropriate officials of the Town of Gorham in honor of this special occasion.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

The following items appearing on Supplement No. 25 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Non-Concurrent Matter

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Energy Improvements in State Facilities" (H.P. 1590) (L.D. 2243) (C. "A" H-688) which Failed of Passage to be Enacted in the House on April 15, 1986.

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-688) and Senate Amendment "A" (S-532) in non-concurrence.

The House voted to recede and concur.

PASSED TO BE ENACTED

An Act Relating to Medical and Legal Professional Liability (S.P. 958) (L.D. 2400) (S. "A" S-521)

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

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

PAPERS FROM THE SENATE

Non-Concurrent Matter

An Act to Provide for the Motor Vehicle Division to Purchase and Maintain Software Equipment Independent of any Other Provider and Related Hardware (H.P. 1331) (L.D. 1866) which was Passed to be Enacted in the House on March 25, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-576) as amended by House Amendment "A" (H-594) thereto)

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

On motion of Representative Nadeau of Saco, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

An Act Relating to a New Registration Plate Issue (Emergency) (H.P. 1540) (L.D. 2171) which was Passed to be Enacted in the House on March 17, 1986. (Having previously been passed to be Engrossed as amended by House Amendment "A" (H-568))

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

The House voted to recede and concur.

The Chair laid before the House the following matter: Bill "An Act to Provide for the Motor Vehicle Division to Purchase and Maintain Software Equipment Independent of any Other Provider and Related Hardware" (H.P. 1331) (L.D. 1866) which was tabled earlier in the day and later today assigned pending further consideration.

(Came from the Senate, the Bill and accompany papers Indefinitely Postponed in non-concurrence.)

The House voted to recede and concur.

(At Ease)

The House was called to order by the Speaker.

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

Non-Concurrent Matter

An Act to Increase the Aid to Families with Dependent Children Standard of Need (H.P. 1352) (L.D. 1896) which was Passed to be Enacted in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-689))

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

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

Representative CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, in my opinion, it is a shame that this bill is not going to be able to be enacted tonight in this legislature. I think the thing that makes it particularly bittersweet is that, if the issue had been able to ultimately stand on its own, that it would have passed this legislature. It got a strong support, in fact a unanimous support in the committee, and it made its way with the help of an awful lot of people on both sides of the aisle through both bodies to the Appropriations Table and, then on Sunday evening, it got a good support in the Appropriations Committee. The unfortunate thing is that, inevitably, it became tangled with other issues that were floating around the committee and personalities and because of that, we sort of lost control of it.

The issue is a very significant one and it is too bad but I guess I and others have allowed our personalities to become intertwined in this issue. It is an issue that needs to be fought again, whether that will happen in May or at some other time, remains to be seen but it is a fight that needs to be made. I would hope that at some point it is a fight that other people would be willing to pick up and deal with to everybody's satisfaction.

Subsequently, the House voted to recede and concur.

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

The Chair laid before the House the following matter: An Act to Authorize the Payment of Retention and Recruitment Stipends in State Government (Emergency) (H.P. 1676) (L.D. 2362) which was passed to be enacted in the House on April 12, 1986 which was tabled earlier in the day and later today assigned pending further consideration.

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

The House voted to adhere.

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

Non-Concurrent Matter

An Act Relating to the Transfer of Authority from the District Courts to the Secretary of State to Adjudicate the Commission of Traffic Infractions (H.P. 1689) (L.D. 2379) which was Passed to be Enacted in the House on April 12, 1986.

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-540) in non-concurrence.

The House voted to recede and concur.

(Off Record Remarks)

On motion of Representative Strout of Corinth,
Adjourned until April 16, 1986 at ten o'clock in the morning.
