

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fifteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

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

In Senate Chamber

Thursday

February 13, 1992

Senate called to Order by the President.

Prayer by Reverend Robert Leon of the Randolph United Methodist Church.

REVEREND ROBERT LEON: Let us pray. Heavenly Father be with the people of the Senate today, that we may consider all before us with wisdom. May our justice be informed by compassion. May our praise to you be expressed not by words but by the deeds of service we undertake for the people of Maine. May your truth and your love give light to our day. Amen.

Reading of the Journal of Tuesday, February 11, 1992.

Out of order and under suspension of the Rules, on motion by Senator **DUTREMBLE** of York, the following Joint Order:

S.P. 914

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 18, 1992, at four o'clock in the afternoon.

Which was **READ** and **PASSED**.

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

**PAPERS FROM THE HOUSE
Non-concurrent Matter**

Bill "An Act Prohibiting the Driving or Parking of Vehicles on Ice-covered Bodies of Water"

S.P. 216 L.D. 543

In House, March 25, 1991, the **LEAVE TO WITHDRAW** Report **READ** and **ACCEPTED**, in concurrence.

RECALLED from the Legislative Files pursuant to Joint Order H.P. 1635, in concurrence.

Comes from the House with the Bill and Accompanying Papers **RECOMMITTED** to the Committee on **ENERGY & NATURAL RESOURCES** in **NON-CONCURRENCE**.

Senate at Ease

Senate called to order by the President.

The Senate **RECEDED** and **CONCURRED**.

House Papers

Bill "An Act Concerning the Use of Alternative Coding Systems for Plastic Containers"

H.P. 1649 L.D. 2312

Comes from the House referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**.

Which was referred to the Committee on **ENERGY & NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Ensure Continuing Knowledge of the Identity and Whereabouts of Convicted Sex Offenders"

H.P. 1652 L.D. 2315

Bill "An Act to Enact Article 4-A of the Uniform Commercial Code"

H.P. 1654 L.D. 2321

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which were referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Require Economic Impact Criteria on State Procurement Procedure"

H.P. 1650 L.D. 2313

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Impose a Sales Tax on All Items Sold at Flea Markets Except Those Sold by Nonprofit Organizations"

H.P. 1651 L.D. 2314

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Establish a Watershed District for Sebago Lake"

H.P. 1653 L.D. 2316

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

COMMUNICATIONS

The Following Communication: H
.P. 1655

**MAINE TURNPIKE AUTHORITY
430 RIVERSIDE STREET
PORTLAND, MAINE 04103**

February 5, 1992

Hon. Charles P. Pray
President of the Senate
State House Station
Augusta, Maine 04333
Hon. John L. Martin
Speaker of the House of Representatives
State House Station
Augusta, Maine 04333

Dear President Pray and Speaker Martin:
I am pleased to forward to the Maine Legislature the Maine Turnpike Authority's 1993 Revenue Fund Operating Budget in accordance with Initiated Bill Chapter 1, 1991. The specific section of the law is Sec. 3, 23 M.R.S.A. 1961 sub - 6.

I look forward to working with the Legislature and presenting background information on the MTA's 1993 Revenue Budget through the Committee process.

Sincerely,
S/Paul E. Violette
Executive Director

Comes from the House **READ** and referred to the Committee on **TRANSPORTATION**.

Which was referred to the Committee on **TRANSPORTATION**, in concurrence.

The Following Communication:
STATE OF MAINE
OFFICE OF SUBSTANCE ABUSE
STATE HOUSE STATION 159
AUGUSTA, MAINE 04333

February 10, 1992
The Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333

Dear Mr. President:

We are pleased to send you a copy of the 1992 Progress Report of the Office of Substance Abuse. This report is a yearly report mandated in PL 1990 c. 934.

Should you have any questions concerning the report, please contact me at your convenience.

Sincerely,
S/Ronald G. Speckmann
Director

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

SENATE PAPERS

Bill "An Act to Provide Additional Funding for the Department of Inland Fisheries and Wildlife Through Increased License Fees"

S.P. 912 L.D. 2332

Presented by Senator **PEARSON** of Penobscot (GOVERNOR'S BILL)

Cosponsored by Senator **SUMMERS** of Cumberland

Which was referred to the Committee on **FISHERIES & WILDLIFE** and **ORDERED PRINTED**.

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

Bill "An Act to Encourage Private Sector Investment in Tourism"

S.P. 911 L.D. 2331

Presented by President **PRAY** of Penobscot

Cosponsored by Senator **CLARK** of Cumberland and Senator **FOSTER** of Hancock

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Which was referred to the Committee on **HOUSING & ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

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

Resolve, to Expand the Use of the University of Maine System's Interactive Television System

S.P. 902 L.D. 2322

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Resolve, to Study the Structure of the University of Maine System and Examine Options for Better Integrating the University of Maine System and Maine Maritime Academy

S.P. 903 L.D. 2323

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Resolve, to Establish Regional Boundaries for Health and Social Services (Emergency)

S.P. 904 L.D. 2324

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Resolve, to Establish Regional Boundaries for Natural Resource Services (Emergency)

S.P. 905 L.D. 2325

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Resolve, to Review the Public Safety and Criminal and Civil Justice Systems (Emergency)

S.P. 906 L.D. 2326

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Resolve, to Implement Total Quality Management Procedures in State Government (Emergency)

S.P. 907 L.D. 2327

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Resolve, Authorizing the Maine Coalition for Excellence in Education to Study Education Policy in the State (Emergency)

S.P. 908 L.D. 2328

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Resolve, to Establish a Mechanism for Assessing the Potential for Privatization of State Services (Emergency)

S.P. 909 L.D. 2329

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Bill "An Act to Implement the Recommendations of the Special Commission on Governmental Restructuring"

S.P. 910 L.D. 2330

Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.

Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

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

Off Record Remarks

COMMITTEE REPORTS

House

Ought Not to Pass

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

From the Committee on **BANKING & INSURANCE** Bill "An Act to Amend the Automobile Assigned Risk Laws of Maine"

H.P. 1411 L.D. 2023

From the Committee on **BANKING & INSURANCE** Bill "An Act to Ensure Continuity of Health Insurance Coverage"

H.P. 1422 L.D. 2034

From the Committee on **BANKING & INSURANCE** Bill "An Act to Require Insurance Companies Doing Business in Maine to Waive All Antitrust Immunities"

H.P. 1513 L.D. 2125

From the Committee on **BUSINESS LEGISLATION** Bill "An Act to Prevent Insurers from Mandating the Use of Specific Parts, Products or Businesses"

H.P. 1413 L.D. 2025

From the Joint Select Committee on **CORRECTIONS** Resolve, to Develop a Plan for a Coordinated System of Sanctions and Services for Convicted Sex Offenders (Emergency)

H.P. 1518 L.D. 2130

From the Committee on **ENERGY & NATURAL RESOURCES** Bill "An Act to Improve the Administration of Municipal Landfill Closure and Remediation Plans" (Emergency)

H.P. 1595 L.D. 2249

From the Committee on **LEGAL AFFAIRS** Bill "An Act to Prevent Intoxication-related Injuries, Deaths and Damages"

H.P. 1453 L.D. 2065

Leave to Withdraw

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

From the Committee on **LEGAL AFFAIRS** Resolve, Authorizing Fred Bubar, Thomas Bubar, Clifford Bubar, Galen Helstrom, Gary Helstrom and Gene Helstrom to Sue the State

H.P. 1446 L.D. 2058

From the Committee on **LEGAL AFFAIRS** Resolve, Authorizing David Boone to Bring a Civil Action against the Town of Princeton

H.P. 1510 L.D. 2122

Ought to Pass

The Committee on **ENERGY & NATURAL RESOURCES** on Bill "An Act to Clarify the Zoning Provisions Administered by the Maine Land Use Regulation Commission" (Emergency)

H.P. 1589 L.D. 2243

Reported that the same **Ought to Pass**. Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass As Amended

The Committee on **AGRICULTURE** on Bill "An Act to Replace Criminal Penalties with Civil Penalties for Violations of Weights and Measures Laws"

H.P. 1483 L.D. 2095

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-893)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-893)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-893) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BANKING & INSURANCE** on Bill "An Act to Clarify the Laws Related to Credit Cards"

H.P. 1410 L.D. 2022

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-895)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-895)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-895) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BANKING & INSURANCE** on Bill "An Act to Achieve Parity between the Authority of Loan Officers of State-chartered Credit Unions and the Authority of Loan Officers of Federally Chartered Credit Unions"

H.P. 1441 L.D. 2053

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-896)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-896)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-896) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **HUMAN RESOURCES** on Bill "An Act to Penalize the Department of Human Services for Failing to Make Prompt Child Support Payments to Obligees"

H.P. 1054 L.D. 1543

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-892)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-892)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-892) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **BANKING & INSURANCE** on Bill "An Act to Provide Equitable Insurance Reimbursement for Acupuncture Services Provided by Licensed Acupuncturists"

H.P. 683 L.D. 982

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-878)**.

Signed:

Senators:

KANY of Kennebec
MCCORMICK of Kennebec
BRAWN of Knox

Representatives:

MITCHELL of Vassalboro
ERWIN of Rumford
TRACY of Rome
KETOVER of Portland
JOSEPH of Waterville
RAND of Portland
PINEAU of Jay
CARLETON of Wells

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

Signed:

Representatives:

HASTINGS of Fryeburg
GARLAND of Bangor

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-878)**.

Which Reports were **READ**.

The Senate **ACCEPTED** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-878) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **BANKING & INSURANCE** on Bill "An Act to Provide Equitable Insurance Coverage for Mental Illness"

H.P. 1064 L.D. 1553

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-883)**.

Signed:

Senators:

KANY of Kennebec
MCCORMICK of Kennebec
BRAWN of Knox

Representatives:

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

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

Signed:

Representatives:

HASTINGS of Fryeburg
GARLAND of Bangor
CARLETON of Wells

Comes from the House with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-883)**.

Which Reports were **READ**.

The Majority **UGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

Senator **COLLINS** of Aroostook moved that the Senate **RECONSIDER** its action whereby it **ACCEPTED** the Majority **UGHT TO PASS AS AMENDED** Report, in concurrence.

Senator **KANY** of Kennebec requested a Division.

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

Senator **COLLINS**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am interested in this Bill and I am aware it provides additional coverage for certain mental diseases which I think is admirable. I think it makes the point they ought to be considered in the same fashion as certain other illnesses. I have no quarrel with that. I am concerned, however, about two things. One is that it appears it is a mandate which means it must appear as a provision in all health insurance policies. More than that I am concerned about what the cost might be to State Government and Municipal Government and to the private sector. As I recall, if this were to fall into place it would also affect municipalities who had health insurance. If this were considered a mandate then the state would have to reimburse those municipalities for fifty percent of that cost. It is for the reason of the cost associated with this that I raise the question and not with the merits of the Bill. I wonder if someone in the Committee might explain that and explain whether this also passed muster with the Committee that deals with mandates. Thank you Mr. President.

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

Senator **KANY**: Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill did go to the Mandated Benefits Advisory Commission and the recommendation was that this Bill pass. The Mandated Benefits Advisory Commission along with the Banking and Insurance Committee really is very reluctant to pass on any new mandated benefits. The reason for their vote and for our strong vote recommending passage is that we all believe that those who have organic, biological mental illness and they are defined, recognizable, and are unavoidable, can often be treated or kept in check with regular medication. Often those with these terrible biological or organic diseases such as schizophrenia or bipolar problem can actually work if they continue their medication and get appropriate care out of the institution and hospital treatment. One of the problems today is that there is a cap on the treatment, a lifetime cap. Also out of hospital treatment often is paid for only on a fifty percent basis which discourages outpatient treatment and encourages more expensive hospital treatment. This Bill would allow for more appropriate treatment and in the long run could perhaps save money by not having to hospitalize these people with these chronic organic or biological diseases.

There probably will be some cost immediately, by this mandate on premiums. It is expected to cost a little bit more temporarily. The truth of the matter is that today there is a great deal of cost shifting because ultimately treatment is unavoidable even though we could encourage the least costly, more appropriate treatment of the out patient. There is a great deal of cost shifting for expensive hospitalization particularly, as the taxpayer ends up picking up the tab often through Medicaid. The tax payer at both the State and Federal level and others who pay premiums on regular health insurance

premiums. There is a cost shift because that treatment does occur and someone is paying. Clearly it is a fairly complex set of data and information that went into our recommendation. The Committee in general felt very comfortable with its recommendation. We believe this is fair, reasonable, and those are the only basic biological or organic diseases that have been singled out for a lesser coverage. We thought it made sense and we hope you will go along with our recommendation.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I thank the good Senator from Kennebec, Senator Kany for her explanation. I guess the only thing I failed to hear was the fiscal note, the dollars that are attached to the Bill. I know they must be substantial because I have heard reports affecting single premiums as much as \$18 a month or roughly \$200 a year. I do recall that it does remove the caps that presently exist. I would be pleased to get the fiscal note. Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Pursuant to the rules, does this Bill have a fiscal note on it?

THE PRESIDENT: The Senator from Penobscot, Senator Pearson has posed a question through the Chair. The Chair would answer the question in reference to whether or not the Bill had a fiscal note. Committee Amendment "A" does include a fiscal note on the Bill which removes the maximum limitations on certain inpatient and outpatient mental health services and requires services to be paid at a minimum of eighty percent. At the paid minimum of eight percent it may increase the number of services performed or the length of treatment. The resulting increase of the cost of State Employees health insurance program could range from approximately \$1.6 million annually to moderate usage increase to \$3.8 million if services utilization doubles. General Fund Appropriation based upon this range of \$1.011 million to \$2.344 million annually would be required. The Chair would note that it also goes on to make reference to municipal implications. The additional local costs from increase to municipal health insurance coverage which represents a state mandate that must be reimbursed pursuant to the Maine Revised Statutes Title 30A Section 5684. The General Fund Appropriations required to reimburse these costs cannot be estimated at this time.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This is the position that nobody wants to be in. Everybody in this whole chamber and everybody probably in this whole state simply wants to do this. Everybody in this whole state wanted to do mammograms. Everybody in this whole state wanted to do everything that we have ever put on as a mandate for Blue Cross. Anyone who takes this position immediately becomes the target of being called an uncaring individual. That is a role one has to accept because people will not want to understand. I think, as much as I want to do everything that I possibly can and like to do, I have to remember we have a recession that is causing us enormous difficulties. This would add another \$1 million or so to it and we have passed a mandate law

that says if you increase the cost to municipalities the state must pick up fifty percent of it. We all voted for that together and now the chicken has come home to roost. If you meant it then, you have to put your money to it now. If we vote for this we have to do it with our eyes wide open. This is going to be well over \$1.5 million to the state. If we don't mean what we said, probably it will be \$1 million. That is doing away with the reimbursement of municipal mandates. We have a choice. The third choice is to allow it to continue on its way and let somebody else somewhere else kill it. I suspect this is the route some people will take. It is going to cost a lot of money to do it.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I want you to know that our Committee received many proposals for new mandates. This is the only actual new mandate that we are proposing. It is just an expansion of one so that is treated like every other illness. The Bill that was on the Calendar prior to this was not a new mandate, it was only for those that were trained, could perform acupuncture if and only if acupuncture were offered in a policy. I just want you to know that so the one before us is the only new mandate that our Committee in two years of having been offered and proposed many new mandates, this is the only one we are going along with. The only one. We are looking beyond today, we are looking at tomorrow and we are acknowledging finally that devastating costs for serious mental illness not only put people in bankruptcy, it causes divorces, it causes families to decide that they must make the decision to allow the state to take over their child and it chases people on to Medicaid. Medicaid which is very costly for us tax payers. Do you know that under this proposal eighty percent of out patient costs would be paid. Under Medicaid one hundred percent are paid. Who pays for Medicaid? The taxpayers pay for Medicaid. What we are proposing here is that some of the costs for very expensive illness, which can be devastating to the families and to their wallets, at least some of it would be paid by private insurance. Please keep that in mind. We would be encouraging in allowing and forcing some private insurance to pick up more of the Bill for these devastating illnesses like they do for cancer and other devastating, expensive illnesses. It seemed to be fair to us. In the long run it made economic sense. It would allow the private sector to pick up more of that cost of these devastating illnesses instead of sending people for very expensive treatment at BMHI and AMHI and other public facilities. Even in the private hospitals Medicaid is the one that picks up one hundred percent of the bill and one hundred percent of out patient. Please keep in mind we are talking about clearly defined illnesses that are seeking the same treatment as others. This is the only proposed mandate that our Committee went along with. We turned down many heart rendering suggestions that we would have liked to have gone along with but we realize the fiscal reality too. We kept that in mind. Thank you.

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

Senator **PEARSON:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The Senator from Kennebec, Senator Kany has said if you provide

insurance you take them off of Medicaid. I would suspect that is true. I would believe that is true. I also believe that when the fiscal note was prepared it would have taken that into account. It would be some savings but after those savings were accrued it would end up costing a little over \$1 million just for the state portion of the cost and not address the municipal costs. I think you ought to understand the fiscal notes would take that into account. We have, still, a \$1 million problem that is facing us. If you vote yes, you are doing a very good thing because you are providing insurance. You are also costing \$1 million for the budget. I would pose a question to the good Senator from Kennebec, Senator Kany. How did you propose to fund it? Thank you.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill, if enacted and I certainly hope you would enact this, which all three Senators on the Committee supported and almost all members of the Committee supported believed it should go to the Appropriations Committee and should vie along with anything else for available monies. We believe the more you look at this issue, and the more time you spend thinking about all the alternatives that you will indeed select this as a priority. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We have two issues here with this Bill. We have the issue of cost and the human factor. The good Senator from Penobscot, Senator Pearson has very well articulated the tension that we all must feel between those two issues. We have gotten across our desks many letters about this. Particularly I want to call your attention to a letter from Rick Jacobson who is a doctor and Medical Director of Department of Mental Health and Retardation. He happens to be a constituent of mine and I know him very well. He says the following about costs. He says "It is highly probable that the total medical care costs to the people of Maine would be reduced with access to such services as will be provided in this Bill". He is referring to the fact that currently families, and this is now the human cost, families have to spend down into poverty in order to be eligible for Medicaid, in order to cover their loved ones for these biologically based mental illnesses. They have to put their children up for adoption or board them to the state in order to have those children be able to get the care they need for such biologically based diseases as bipolar, schizophrenia and others, six physically definable diseases. This is what Doctor Jacobson says. "Currently the State of Maine basically is funding the total cost of treating those illnesses. The commercial health insurers are covering a mere \$25,000 lifetime cap on these diseases." It is my understanding, with all due respect to the Senator from Penobscot, Senator Pearson, that the fiscal note does not take into consideration the Medicaid cost savings to this state. It is my understanding that this is Blue Cross Blue Shields' estimate of the cost to the State plan. Let's look at that for a minute.

Blue Cross/Blue Shield has said our insurance is going to go up \$19 per month per person because of treating biologically based mental illnesses the same

as we would treat cancer or lung disease. I have to tell you that figure has been called into question, serious question, by many experts including Coopers & Lybrand which concluded the cost of extending coverage up to the same lifetime costs as for physical diseases, would be 78¢ per month per insured person. We have Blue Cross/Blue Shield saying it is going to be \$19 a month and we have Coopers & Lybrand saying it would be 78¢ per month. We further have a study in Minnesota which concluded that it is going to be 50¢ per month per insured person to cover the increased cost of treating six definable biologically based mental illnesses the same as we would treat biologically based physical illnesses. Why do we make that distinction? Everytime you or I go to a therapist because we are depressed is not what we are talking about here. We are talking about diseases that can be physically diagnosed through an MRI or other type of brain scan and can be told they are chemical and physically based. A public policy question before us today is; Should we be treating biologically based diseases differently merely because one affects our brains rather than our colons, lungs, or hearts? I want to further quote from Dr. Jacobson's letter. LD 1553 was one of two mandates approved by the Mandated Benefits Commission out of many. He says "Treatment would begin more quickly and as a result prognosis would be improved and the episode of illness would be shorter, the rehabilitation more effective, and certainly much less damage done to the family and the natural support available to all other individuals." This is one effect of LD 1553. Second he noted, "Treatment would take place closer to home and without the displacement to distant sites. Treatment would become more available at the local general hospital with its associated medical services." It can also be cost saving to out patient services because of LD 1553. The care would be more comprehensive because the accessibility to psychiatric services and general medical services could be brought into play in a much earlier stage." Lastly continuity of care would be improved. Both pre and post hospital care would become an available option for many patients now denied such care because of inadequate access. Re-hospitalization would be dramatically reduced, yet another cost saving. That is why he concluded "It is highly probable that the total medical care cost to the people of Maine would be reduced with improved access provided in L.D. 1553." There we have the cost data. I think we all understand the anguish of families that have to put their children up for adoption or spend themselves into poverty. In a matter of weeks, if you have a bipolar disease, you exhaust the lifetime cap in insurance. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I will not be as long or as eloquent as the other two Senators who have already spoken on this very important issue. I did feel it important to rise and add my support to this and I think I will be real bold and brave and step out and say, For once in my life I am the one who truly believes in the long run this will be a cost savings. We all pay for this someplace, whether it be in an insurance premium or tax payer dollars. I, for one, believe in this Bill and I hope that you will support it. Thank you.

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

Senator **PEARSON**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am cast in a position I got myself in that is not comfortable. As I said before who wants to say no to health insurance for anybody on anything? This isn't just anything. This is one of the most important things that confront mankind. I just would like to say again I think you ought to take into account the fiscal impact. The Senator from Kennebec, Senator McCormick cited a letter from somebody who is involved in this particular field saying it was going to lower costs. I would like to say for the purpose of this Senate that I think that is nice the gentlemen wrote the letter but the Joint Rules say on Rule 22 that fiscal notes are prepared by the Office of Fiscal and Program Review downstairs and not by somebody who mailed a letter from the outside, although they could take the letter into consideration. I made the point that this probably didn't take into consideration the savings that would be effected on Medicaid. I am getting mixed signals on that point. I have before me a memo from the Deputy Commissioner of Human Services, Rudy Naples, who says there is no impact on Medicaid. This L.D. has no impact on Medicaid. It is another mandate for private insurers. This memo is bothering me because it is not just a mandate for private insurers, it is a mandate that affects the state. I am not sure I buy this either and I understand there is ongoing conversations about the fiscal note and what it ought to be on the Bill that is taking place downstairs. Personally, I don't think we ought to address the Bill until that issue on the fiscal note is resolved. I don't know if that is cause enough for anyone else to table the Bill but I would like to know what it cost before I pass this Bill. I would like to know what it cost by the apparatus we set up in the Joint Rules and not by a letter that comes through the mail from someone involved in the field. I guess that is all I have to say. I think we ought to, for once, view this with our eyes wide open.

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

Senator **CLARK**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think it is most appropriate that the good Senator from Penobscot, Senator Pearson has raised an issue that should raise our awareness to the struggle which families of victims of mental illness, particularly those biologically based illness which might normally be covered under health insurance policies face when these types of mental illness strike them. What we face here this afternoon, I think is a larger reflection of what occurs within those family units.

You may be wondering why I am standing up on this issue. One of the proudest moments in my Legislative history, which a number of larger employers in the state have reminded me of regularly, was the sponsorship of the first mandated Bill when I served on the Business Legislation Committee well over ten years ago. The State has survived this past decade and the citizens of this state have been better served. It is time, even in these times of fiscal constraint, that we remove the cap and accept the recommendation unanimously signed by our colleagues in this Maine Senate with the blessing of the Mandate Benefits Commission and move forward with this. I suppose I would have to admit that if to address the concerns expressed by the good Senator from Penobscot, Senator Pearson this Bill were tabled I

wouldn't object. I think it is more appropriate that the Office of Fiscal and Program Review, which is vested with the authority and responsibility to develop these fiscal notes, continue working as I know they are, on the fiscal note which is currently attached to this Bill. We are also under other constraints which is Legislative Days. Letting the Bill proceed as was recommended from the Committee through the Legislative process knowing if there are changes in the fiscal note that they will emerge as it does proceed positively through this Legislature. I think it is perfectly appropriate that in 1992 that biologically based illnesses be treated like every other illness associated with the human body. This Legislature should continue the strides of a much earlier Legislature and do all that is within our capacity to remove not only the fiscal burden associated with these biologically based mental illnesses but the social stigma that is also associated with mental illnesses. It is, after all, less than 10 years before a new century. Let's step forward together today in support of this measure. Thank you Mr. President.

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

Senator **PEARSON**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I think I can put an end to this debate. I suggest we all vote for it and send it to Committee. As the Senator from Kennebec, Senator Kany says we'll let it take its chances with the surplus money we have in the state.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **COLLINS** of Aroostook that the Senate **RECONSIDER** its action whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, the motion of Senator **COLLINS** of Aroostook that the Senate **RECONSIDER** its action whereby it **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, **FAILED**.

The Bill **READ ONCE**

Committee Amendment "A" (H-883) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **EDUCATION** on Bill "An Act to Amend the Secret Voting Provision Governing School Administrative District Budget Proceedings"

H.P. 1440 L.D. 2052

Reported that the same **Ought to Pass**.

Signed:

Senators:

ESTES of York
MCCORMICK of Kennebec

Representatives:

Springs

CROWLEY of Stockton

O'DEA of Orono
 HANDY of Lewiston
 O'GARA of Westbrook
 OLIVER of Portland
 CAHILL of Mattawamkeag
 PFEIFFER of Brunswick

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

Signed:

Senator:

BRAWN of Knox

Representatives:

BARTH of Bethel

AULT of Wayne

(Representative NORTON of Winthrop Abstained)

Comes from the House with the Minority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

Which Reports were **READ.**

Senator **ESTES** of York moved that the Senate **ACCEPT** the Majority **UGHT TO PASS** Report in **NON-CONCURRENCE.**

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask for a division and I would ask you to reject the motion of the good Senator from York, Senator Estes, Chairman of our Committee. I would like to call your attention to the statement of fact of what this Bill does before you vote on it. This Bill requires a majority of people present and voting at a School Administrative District Budget meeting to approve the procedure voting on the budget by secret ballot. Under current law approval of that procedure requires the vote of only ten percent of those present and voting. I believe this is making it more difficult for secret ballot and I don't think that we should be doing that. I think we should be advocating people voting and if they want secret ballot I think that should be their will. I hope you will vote against the motion. Thank you.

Senator **BRAWN** of Knox requested a Division.

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

Senator **ESTES:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill came before the Education Committee a few weeks ago. It is a problem that has been raised time and time again when at budget meetings in some instances people have requested that secret ballots be on every article and not just on the major articles. The original intent of the sponsors of the Bill was that for a secret ballot it would require a majority of those present and voting. Similar to what is adopted in some town meetings. I would ask that the members of the Body pass the Majority Ought To Pass Report and in the Second Reading I would like to offer an amendment. The amendment would repeal the provision in the law and allow the District Budget meeting to determine exactly what that percentage would be. That would be a local decision and would operate the way most town meetings operate in the State. Thank you.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill has

been in existence since 1984. I have heard no real serious problems with the Bill since 1984. In 1984 the Bill was sponsored by Representative Ridley, Representative Carroll, Senator Wood, Representative Seavey and was a bi-partisan Bill. They recognized the need for recognizing the minority at that time. A minority of ten percent certainly should have the right to vote secretly if they so desire. I oppose this fifty percent plus one and I urge you all to vote against the motion. Thank you.

On motion by Senator **BRAWN** of Knox, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **ESTES** of York that the Senate **ACCEPT** the Majority **UGHT TO PASS** Report in **NON-CONCURRENCE.**

A vote of Yes will be in favor of the motion by Senator **ESTES** of York, to **ACCEPT** the Majority **UGHT TO PASS** Report in **NON-CONCURRENCE.**

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI, BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, CONLEY, DUTREMBLE, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, TITCOMB, TWITCHELL, VOSE, THE PRESIDENT - CHARLES P. PRAY**

NAYS: Senators **BRAWN, CAHILL, CARPENTER, COLLINS, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, THERIAULT, WEBSTER**

ABSENT: Senator **CLEVELAND**

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **ESTES** of York, that the Senate **ACCEPT** the Majority **UGHT TO PASS** Report in **NON-CONCURRENCE, PREVAILED.**

The Bill **READ ONCE.**

The Bill **TOMORROW ASSIGNED FOR SECOND READING.**

Divided Report

The Majority of the Committee on **LABOR** on Bill "An Act to Open Teacher-employer Bargaining to the Public"

H.P. 1132 L.D. 1657

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

ESTY of Cumberland
CONLEY of Cumberland
CARPENTER of York

Representatives:

ST. ONGE of Greene
MCKEEN of Windham
MCHENRY of Madawaska
RAND of Portland
RUHLIN of Brewer
PINEAU of Jay

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-887).**

Signed:

Representatives:

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

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

Which Reports were **READ**.

On motion by Senator **CARPENTER** of York, the Senate **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

Divided Report

The Majority of the Committee on **UTILITIES** on Bill "An Act to Protect Telephone Customer Privacy"

H.P. 1118 L.D. 1643

Reported that the same **Ought to Pass** as **Amended** by **Committee Amendment "A" (H-888)**.

Signed:

Senators:

CLEVELAND of Androscoggin
 VOSE of Washington

Representatives:

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

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

Signed:

Senator:

CARPENTER of York

Representatives:

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

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-912)**.

Which Reports were **READ**.

Senator **VOSE** of Washington moved that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

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

Senator **CARPENTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The House Amendment came out of Committee and I am in full agreement of it. I would now be on the Majority Report. Thank you.

THE PRESIDENT: The Chair would advise the members that the proper discussion at this time is the acceptance of the Ought To Pass Report. The House Amendment and Committee Amendment are not presently before us.

On motion by Senator **VOSE** of Washington the Senate **ACCEPTED** the Majority **OUGHT TO PASS AS AMENDED** Report, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-888) **READ** and **INDEFINITELY POSTPONED**, in concurrence.

House Amendment "A" (H-912) **READ** and **ADOPTED**, in concurrence.
 The Bill **As Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

Senate

Ought Not to Pass

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

Reported by Senator **WEBSTER** for the Committee on **AGING, RETIREMENT & VETERANS** Bill "An Act to Restore Maine State Retirement Service Credit to Certain Part-time, Seasonal, Intermittent or Legislative Employees"

S.P. 809 L.D. 2008

Reported by Senator **TITCOMB** for the Committee on **ENERGY & NATURAL RESOURCES** Bill "An Act Dealing with the Powers of the Maine Low-level Radioactive Waste Authority"

S.P. 880 L.D. 2252

SECOND READERS

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

House

Bill "An Act to Repeal the Provisions of the Uniform Commercial Code Relating to Bulk Transfers"

H.P. 1420 L.D. 2032

Bill "An Act to Institute Conformity to the Low-cost Drug Program"

H.P. 1521 L.D. 2146

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

House As Amended

Bill "An Act to Require the Department of Human Services to Have a Regular Presence in Every County of the State"

H.P. 620 L.D. 890
 (C "A" H-884)

Bill "An Act to Establish the Electric Facilities Siting Council"

H.P. 1135 L.D. 1660
 (C "A" H-889)

Bill "An Act to Safeguard Money Held for Minors"

H.P. 1172 L.D. 1713
 (C "A" H-876; H "A" H-894)

Resolve, to Establish the Commission on Recall

H.P. 1377 L.D. 1964
 (C "A" H-868)

Bill "An Act to Clarify the Status of Wood Yard Debris"

H.P. 1427 L.D. 2039
 (C "A" H-891)

Bill "An Act to Extend the Deadline for Closure of Municipal Landfills by 18 Months" (Emergency)

H.P. 1435 L.D. 2047
 (C "A" H-890)

Bill "An Act to Establish Ambient Air Quality Standards for Toluene and Perchloroethylene"

H.P. 1448 L.D. 2060
 (C "A" H-882)

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

Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Liability Actions"

H.P. 253 L.D. 344
(C "A" H-875)

Which was **READ A SECOND TIME**.

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

Senate

Bill "An Act to Amend the Law Governing the Rumford-Mexico Sewerage District"

S.P. 803 L.D. 2002

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Amend the State Ground Water Classification System and Implement the Maine Wellhead Protection Program for the Protection of Public Water System Wellheads" (Emergency)

S.P. 447 L.D. 1191
(C "A" S-543)

Bill "An Act to Provide for the Orderly Transfer of Contracts from Union Schools to Separate School Systems upon Dissolution"

S.P. 682 L.D. 1810
(C "A" S-540)

Bill "An Act Regarding the Repayment of Blaine House Scholarships"

S.P. 795 L.D. 1994
(C "A" S-541)

Bill "An Act to Amend the Laws Governing Telecommunications Interexchange Carrier Selection" (Emergency)

S.P. 797 L.D. 1996
(C "A" S-542)

Bill "An Act to Amend the Laws Concerning High School Equivalency Certificates"

S.P. 828 L.D. 2132
(C "A" S-539)

Bill "An Act to Repeal a Provision Concerning Low Sulfur Fuel"

S.P. 845 L.D. 2149
(C "A" S-544)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

ENACTORS

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

An Act to Require Certain Disclosures in Adoptions and to Provide Additional Protective Services for Children

S.P. 656 L.D. 1732
(C "A" S-526)

An Act to Regulate Certain Warranty Practices for Repairs to Watercraft

H.P. 1319 L.D. 1909
(C "A" H-866)

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

Emergency Resolve

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1992

H.P. 1608 L.D. 2270

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **FINALLY PASSED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

PAPERS FROM THE HOUSE

House Papers

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for a Limit on State Spending and the Creation of Reserves

H.P. 1661 L.D. 2338

Committee on **STATE & LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS**.

Which was referred to the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Ensure the Long-term Stability of Sheltered Group Homes in Maine" (Emergency)

H.P. 1666 L.D. 2342

Comes from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Resolve, to Study Technical Education in Maine Public Secondary Schools

H.P. 1658 L.D. 2335

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Term of and Method of Choosing the Treasurer of the State of Maine

H.P. 1659 L.D. 2336

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the House of Representatives

H.P. 1660 L.D. 2337

Resolve, to Reorganize Health, Social and Developmental Services (Emergency)

H.P. 1662 L.D. 2339

Bill "An Act to Restructure the Department of Administrative and Financial Services" (Emergency)

H.P. 1663 L.D. 2340

Bill "An Act Regarding Advisory Boards and Occupational and Professional Licensing Boards" (Emergency)

H.P. 1664 L.D. 2341

Come from the House referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.
Which were referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Charter of the Dexter Utility District"

H.P. 1667 L.D. 2343

Bill "An Act to Amend the Charter of the Portland Water District" (Emergency)

H.P. 1668 L.D. 2344

Come from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which were referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Allow the Towns of Castle Hill, Chapman and Mapleton to Enter into an Interlocal Agreement"

H.P. 1438 L.D. 2050

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-930)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-930)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-930) **READ** and **ADOPTED**, in concurrence.

Which was under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning Reasonable Standards and Procedures for Contracting Services by the State"

H.P. 1669 L.D. 2345

Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **STATE & LOCAL GOVERNMENT**.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Authorizing an Advisory Referendum on Whether the Congress of the United States Should Establish a National Health Insurance Program"

H.P. 1656 L.D. 2333

Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **BANKING & INSURANCE**.

Which was referred to the Committee on **BANKING & INSURANCE** and **ORDERED PRINTED**, in concurrence.

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

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Regulate Incineration Plants"

H.P. 1059 L.D. 1548

Tabled - February 11, 1992 by Senator **CLARK** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (H-879)

(In Senate, February 11, 1992, Committee Amendment "A" (H-879) **READ**.)

(In House, February 6, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-879)**.)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ADOPTION** of Committee Amendment "A" (H-879), in concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act Concerning Anatomical Gifts Under the Motor Vehicle Laws"

S.P. 900 L.D. 2319

Tabled - February 11, 1992 by Senator **CLARK** of Cumberland.

Pending - **REFERENCE**

(In Senate, February 11, 1992, referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**. Subsequently, **RECONSIDERED**.)

On motion by Senator **CLARK** of Cumberland, **REFERRED** to the Committee on **JUDICIARY**.

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

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Amend the Municipal Public Employees Labor Relations Laws"

S.P. 465 L.D. 1248

(C "A" S-537)

Tabled - February 11, 1992 by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, February 11, 1992, **READ A SECOND TIME**.)

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill was debated for a long time last week. With that in mind I ask for a Division.

Senator **CAHILL** of Sagadahoc requested a Division.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED AS AMENDED**.

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED AS AMENDED.**

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

JOINT ORDER - relating to adjunct members to the Joint Standing Committee on State and Local Government for bills concerning governmental restructuring.

SP 913

Tabled - February 11, 1992 by Senator **CLARK** of Cumberland.

Pending - **PASSAGE**

(In Senate, February 11, 1992, **READ.**)

Which was **PASSED.**

Sent down for concurrence.

On motion by Senator **DUTREMBLE** of York, the Senate removed from the Unassigned Table, the following matter:

SENATE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide State Funding of any Mandate Imposed on Municipalities
S.P. 42 L.D. 66

Majority - **Ought to Pass as Amended by Committee Amendment "B" (S-527)**

Minority - **Ought Not to Pass**

Tabled - January 23, 1992 by Senator **DUTREMBLE** of York.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, January 23, 1992, Reports **READ.**)

On motion by Senator **CLARK** of Cumberland, the Majority **UGHT TO PASS AS AMENDED** Report was **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "B" (S-527) **READ.**

On further motion by same Senator, Senate Amendment "A" (S-535) to Committee Amendment "B" (S-527) **READ** and **ADOPTED.**

On motion by Senator **GAUVREAU** of Androscoggin, Senate Amendment "C" (S-547) to Committee Amendment "B" (S-527) **READ.**

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As is apparent to all those within the sound of my voice, this particular piece of Legislation has received extensive scrutiny and work over the past several months. First, by the Committee of Jurisdiction, the Committee on State & Local Government, and also by many people in this Chamber as well as in the Hall. I commend all those who have worked on this Bill, for their efforts. I think the Bill we have before us is far more improved than it was in its initial form last spring. However, when I arrived back in the State House this year and reviewed the proposed work product and I understand this Bill at one point came to the floor and was referred back to Committee and is now back before us to accept the Committee Report. There was one clause in the Bill which aroused my concern. The section in the Bill which

requires if the voters do, in fact, adopt a constitutional amendment there will be a need for us to implement legislation to effectuate the Constitutional Amendment. The language in the Committee Bill presently is that we would require a 2/3 vote of members in both chambers to accept the implementing legislation. I well understood, when this issue was debated last spring, why that language was offered. In fact, municipalities were gravely concerned that the Legislature might in some way take action to avoid the constitutional mandate and thrust additional costs to local governments on unfunded state mandates. I must say that I am fully sympathetic with the concerns and pressures of our friends in local government and I understand the pressures they are operating under financing governments on a truly regressive means of financing, that is the property tax. I think peoples perspective might be a little off. I think there might have been an over reaction, perhaps too much distrust of those who are elected to serve in our State Legislature. All of us are certainly aware of the concern on the property tax and I think if the voters of the State approve a Constitutional Amendment we will honor their will.

The events of last summer changed my perspective a little bit as far as the 2/3 requirement. It is a very painful process for all of us. I spoke, probably too often, on my philosophy that a minority should be heard and their concerns considered but the Majority elected by the people of our State ultimately have a duty as well as a right to express their opinion. The Majority should in fact rule. It seemed to me to require a 2/3 vote in both the House and the Senate to implement the Legislation is a bit drastic. My initial temptation, quite honestly, was to eliminate the 2/3 requirement in its entirety and have a simple majority required to implement the amendment if, in fact, the voters approved it. In the spirit of compromise, I am offering a 60% threshold. A 3/5 threshold requires a substantial vote in both bodies of the Legislature and yet it would not put the majority in the situation where they would have accede to a minority in order to have the Legislation implemented. It is for that purpose that I am offering Senate Amendment "C" (S-547) to lower the threshold slightly on implementing Legislation from 2/3 to 3/5. I would urge you to consider this legislation carefully. We are trying to balance the burden on local taxpayers on the property tax with the duty that all of us have in State Legislature to accede to the requirements of majority rules. This concern is not a transient concern. It is, in fact, the very essence of our society and we should give it very careful concern. Although local official criticize this, we have to listen to our local officials. We also have to listen to our conscience and our intellect and we have to provide a system of Constitutional Law which is fair. In that process we have to allow the majority to make difficult decisions. I would urge your very careful consideration of this amendment. Thank you very much.

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

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am remiss in not having been doing my research to notice in my document book that there was a Senate Amendment. I had no idea that was being presented. It changes a

little bit some of the reasons those who support limiting the number of mandates that we send home to our tax payers. Because of that I would like some time to think about this and I ask your indulgence if someone would be good enough to table this one Legislative Day. Thank you.

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **GAUVREAU** of Androscoggin, to **ADOPT** Senate Amendment "C" (S-547) to Committee Amendment "B" (S-527).

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

Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Liability Actions."

H.P. 253 L.D. 344
(C "A" H-875)

Tabled - February 13, 1992 by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

(In House, February 6, 1992 the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, February 13, 1992 **READ A SECOND TIME**.)

On motion by Senator **BALDACCI** of Penobscot, Senate Amendment "A" (S-545) **READ**.

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

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Very quickly this Bill is purely public policy. This Bill is not being presented or pushed by any particular interest. As a matter of fact I think they are both opposed to this amendment. I have been dealing with this cap issue too long. I think, in my own mind as far as public policy, I felt the \$250,000 cap was too low. I felt also from the studies I have seen or heard about that caps don't work and caps do work in some locations. I thought the way we should proceed, at least for myself if I was going to proceed on the issue, was to have it reviewed by the Committee have it for one year and see if there was a change in the insurance or the charges or whatever impact it had. That would be the only way I could proceed. So, Mr. President that is the spirit in which I offer this amendment and I would move passage. Thank you Mr. President.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to congratulate the good Senator from Penobscot, Senator Baldacci for his amendments although I will ask this body to oppose the amendments. I don't agree but I certainly respect the spirit in which the amendment is being offered. I appreciate him joining his voice to this discussion on Medical Malpractice. As I understand it the amendments before us would impose a cap of \$500,000 on noneconomic damages in Medical Malpractice actions. It would further require that the Committee having jurisdiction over the Judiciary in this Legislation review the efficacy of the cap and report back November 1, 1992.

Let me explain briefly, why I oppose the amendment. We have studied intensively the efficacy of caps in medical malpractice actions. Although as mentioned in the somewhat lengthy debate earlier this week on the issue, some studies are hypocritical on the efficacy of caps. We have commissioned a two

year study in Maine chaired by the ubiquitous former Senator from Androscoggin, Richard Trafton which is known here and after as the Trafton Commission. The Trafton Commission found there was no relationship at all between caps and medical malpractice rates. I hesitate to pause there was a Minority Report of two or three folks who thought there was a relationship so it was a divided recommendation. The majority of the recommendation was there was no such relationship. I already cited to you Tuesday of this week the Danzon study and the Rand study, but I did not mention to you the study of the Association of Attorney General and they all found there was no relationship between caps on noneconomic damages and malpractice rates. Therefore, although I sincerely respect the spirit in which the amendment is being offered, I for the reasons I cited at great length on Tuesday, I don't believe there is any value in opposing the caps at any level. I would respectfully urge the Body to resist the offered amendments so we can go on hopefully and put this Legislation in its rightful resting place. Thank you.

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

Senator **BALDACCI:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In twenty words or less the cap issue has been studied but we have not had a cap in Maine to look at and review its impact. We have looked at other States and at a National issue. Some people tell me in California the cap that has been in place has rolled the rates over twenty years and some tell me in other states it goes blip and then goes back to where it was before that. We have had only one cap in Maine Statute and that was upheld by the Maine Supreme Judicial Court which some lawyers, and I am not referred to as a enomolee which is under the Dramshop law which allowed for server liability cap which was upheld by the Supreme Judicial Court. Realizing it is an enomolee and not getting into the debate saying replace a cap in Maine which is not there and then have it reviewed, not other states, countries, or the world, just here in Maine. That is why I thought it would be reviewed. I appreciate the comments from the good Senator from Androscoggin, Senator Gauvreau. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Holloway.

Senator **HOLLOWAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. It is awfully difficult to resist an amendment such as this since we do not have any cap whatsoever on noneconomic damages. I must remind you that many other states do. For instance, in Michigan there is a cap of \$225,000 and there is a cap of \$250,000 which we considered the other night in Kansas, Colorado, Utah, Alabama, and Idaho. In Missouri it's \$300,000 and in Maryland \$350,000, Minnesota \$400,000 and Hawaii \$375,000. I do hope you can reject this amendment so we can keep the cap at \$250,000. Thank you.

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

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from Penobscot, Senator Baldacci started his remarks by saying that he would put a cap of twenty words on his speech and I just want to get up to say caps just don't work.

THE PRESIDENT: The pending question before the Senate is the motion of Senator **BALDACCI** of Penobscot to **ADOPT** Senate Amendment "A" (S-545).

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

5 Senators having voted in the affirmative and 29 Senators having voted in the negative, the motion of Senator **BALDACCI** of Penobscot to **ADOPT** Senate Amendment "A" (S-545), **FAILED**.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED, As Amended in NON-CONCURRENCE**.

Senator **GAUVREAU** requested a Division.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Now having listened to the debate on the prior amendment, the good Senator from Penobscot, Senator Baldacci has exposed that he is in fact a thinking person which actually scares some of the people sitting up back along the wall. It scares them that somebody might actually think through these things. Based on his remarks and it seeming that he may have an open mind on this issue as to whether or not we should have caps, I would like to address a couple of remarks to him and anyone else who may have been able to get far enough away from the crowd so they might actually be able to formulate some thoughts of their own. I might suggest to this group here in the body that this issue of caps relating to doctors has been visited numerous times as speakers have eluded to. Doctors now combined with that very strong lobby the Insurance Industry are very formidable group to have to go up against. They say Labor, anytime you ask Labor what they want, they want more. This crowd would put Labor to shame because they have been in here year after year asking for more. A number of years ago I was on the Judiciary Committee I am not now, they got a demonstration project which allows them to maybe eventually get to a point where they can ask for immunity. They have also got a shortened Statute of Limitations. They used to be subject to six years of negligence actions like anyone else, now they are only subject to it for two years. Maybe you won't find that sponging time that is inside. You used to be able to have a little bit more time to find it, now you don't. Another thing they have been able to get, which no one else has been able to get, is special screening panels which makes it harder than ever to try and sue a doctor. As if it isn't hard enough to sue a doctor to begin with. If you had an amendment here, if there was a special group looking for a cap on damages like attorneys, my God the amendment would have been to allow crucified if you maltreated someone or practiced some sort of negligence. For some reason they want to get in here and have special treatment different from pharmacists, truck drivers, attorneys and chiropractors. Funny how this Bill wouldn't help them out either. They want to have their own little special treatment. I will say to you that caps do not make sense for anybody else, they don't make sense for doctors.

It is so difficult when a Doctor has made a mistake and I mean a mistake, that is what negligence is all about. Doctors can go through their entire lives doing a lot of good for people but they can make a mistake where somebody has the types of damages where maybe they can't see again, maybe they

have silicone in their breasts if you want to talk about something that is in the news, maybe they have lost the use of any of their limbs or brain damage, whereby, they can not formulate a thought again. In particular a woman, we have had some arguments in this Chamber about that, who can not show noneconomic damages the type of loss a lawyer or someone in a profession can show. Should they be limited to \$250,000 or \$500,000 even as the good Senator from Penobscot, Senator Baldacci generously wanted to offer? I think not. The only way you can bring this profession, when they are in court, to offer a decent settlement and don't be mistaken almost all of these cases are settled 98% of them are settled, the only way you can get a decent settlement for someone like a woman in that position is to make sure the sky is the limit. It is the only thing they fear. If they know there is a lid on these damages there will be fewer settlements of cases because their incentive to settle will be so much less. That is why we shouldn't have caps and that is why they have been rejected year after year and why this Bill should not be passed into law.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As most of you, I enjoy richly receiving the robust and vibrant presentations of our colleague from Cumberland, Senator Conley. I really feel, in the interest of fairness, compelled to defend the physicians who have worked on the Maine Demonstration project regarding malpractice. I must confess I was the author of that Demonstration Project that saw the light of day about 6:24 a.m. in June of 1990. The physicians themselves were torn because they were receiving different advice from their own insurance company and from the Maine Medical Association. I have been most impressed with the sincere willingness of the physicians in our State to work on this project. Some physicians openly question the efficacy of malpractice parameters, they call it cookbook medicine. They worked very hard developing these standards and I am very impressed with the efforts of physicians in our State. I don't for a second question their integrity or their motivation in seeking caps. What frustrates me is that this Legislature spends every two years an inordinate amount of time debating an issue which really is a non issue. Caps simply do not work. There are a lot of strategies we could work on to enhance access to health care. Caps do not, have never worked, and will not work. It pains me greatly to see this Institution spend such time and the lobbying groups spend such time on an issue of such little consequence. I am tempted, in part, to vote for the stupid cap so we can get this issue behind us. It is simply poor policy and for that reason I have opposed it. Thank you for your indulgence in allowing me to make these remarks.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to pose a question through the Chair. I'd like to pose a question to the good Senator from Cumberland, Senator Conley. If imposing a \$250,000 cap will decrease settlements which you said are at 98%, will there be an impact on the Judicial System and should there be a fiscal note to that effect attached to this Bill?

THE PRESIDENT: The Senator from Kennebec, Senator McCormick has posed a question through the Chair. The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In answer to the question posed by the Senator from Kennebec, Senator McCormick my remarks reflect what my beliefs are in reference to how cases would tend to go. Shockingly enough many in this Chamber, particularly those in the back row, probably don't share my thoughts on this issue. I do believe the chances for settlement may become less. I don't know if the settlement issue has been figured into why the caps are offered. I do believe there would be more trials because there is more incentive for insurance companies who are really behind this it is not the doctors they want their premiums lowered but they have been sold a bill of goods that their premiums will continue to decrease which they have since some of the other reforms have been put into place, the insurance companies who pay the bill ultimately for a successful judgement and there have not been that many multi million judgements in Maine. I think we are forty sixth out of the fifty states. I still believe there will be more trials because they will have greater incentive to not offer a fair settlement to people affected by noneconomic caps. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Holloway.

Senator **HOLLOWAY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Since Indiana passed their Malpractice Act in 1975 they put a \$500,000 cap on all damages for the amount recoverable. They made the Statute of Limitations in 1984 and set up the panels to review all claims before they go to court. The cost of insurance for Indiana physicians and hospitals have been among the lowest in the nation. This is compared to the mid 1970's when that State's premiums were higher than most neighboring states. Also three new insurance companies have entered the Indiana Medical Malpractice Market since that Bill passed. That is in response to the question about premiums.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I truly apologize for extending the debate tonight. I don't for a second doubt that the comments offered by the Senator from Lincoln, Senator Holloway are correct but what was not mentioned was that Indiana also has a patient compensation fund to medical malpractice actions. Akin to that I offered L.D. 762 at the last Legislative Session. Under patient compensation fund physicians exposure is capped at a certain level and then you have a residual pool which kicks in to compensate fully the injured parties. That is a major distinction to what Indiana has done and other states have done. I think that idea meritorious and should be considered. I would suggest to you, respectively, the patient compensation fund is a significant factor in moderating malpractice rates in the State of Indiana. Thank you.

THE PRESIDENT: The pending question before the Senate is **PASSAGE TO BE ENGROSSED, As Amended in NON-CONCURRENCE.**

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, the Bill was **PASSED TO BE ENGROSSED, As Amended in NON-CONCURRENCE.**

Sent down for concurrence.

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

ENACTORS

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

Emergency

An Act to Allow the Towns of Castle Hill, Chapman and Mapleton to Enter into an Interlocal Agreement
H.P. 1438 L.D. 2050
(C "A" H-930)

This being an Emergency Measure and having received the affirmative vote of 33 Members of the Senate, with No Senators having voted in the negative, and 33 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

The President requested the Sergeant-at-Arms escort the Senator from Cumberland, Senator **CLARK** to the Rostrum where she assumed the duties as President Pro Tem.

The President took a seat on the Floor of the Senate.

The Senate called to Order by the President Pro Tem.

Senator **PRAY** of Penobscot was granted unanimous consent to address the Senate on the Record.

Senator **PRAY:** Thank you Madam President. Ladies and Gentlemen of the Senate. All of you I believe in the last day have received a letter from both myself and from the Senator from Franklin, Senator Webster the Minority Leader in reference to a conversation we had. I would like to, because I think it is significantly important as to how we move through this process, at this time attempt to clear the air and clarify both of our actions. Obviously the Senator from Franklin, Senator Webster can speak for himself. I think it is important to understand and to do so is to read the letters that have gone between the two of us. I sent the Senator from Franklin, Senator Webster a letter last Tuesday after the Session after he had stopped and talked to me.

In that letter I said to him that this letter is written in response to our conversation of last evening. Following the session you informed me that it was the position of your caucus that no Republican Senator would vote for a Bond Issue, to stimulate spending and create jobs until Workers' Compensation reductions were made which satisfied your caucus. If this is indeed an accurate description of all members of your caucus then I must conclude that it is your

desire to recreate the conditions that caused gridlock last July. Frankly, I am extremely disappointed by this development. I am surprised because you know we have been working with the Governor of your party to propose Bonds to produce Maine Jobs. I am surprised also because this type of political extortion runs counter to all the efforts we have made to build a productive atmosphere in the Legislature. I have struggled for two years to reduce the partisan bickering which only contributes to the State's problems. This demands that all parties control the rhetoric and work together to find common ground and avoid threats and old fashioned political log rolling.

As I listened yesterday to your Assistant Leader it sounded like she was echoing this philosophy. On the budget question she pleaded for an approach that sought consensus that rejected the Majority Party seeking to impose this view on the Minority. She said the depth of the State's problem required this approach. Not thirty minutes after her remark she would inform me that the Minority has developed a plan, once again, to do just the opposite, to dictate to the Majority Party in an extortionist style. I would not attempt to dictate to any Senator and certainly not to the loyal opposition. I want to express concern that the stance that you have taken will be viewed as putting party above the interest of Maine citizens and will undoubtedly undermine all of our efforts to move beyond confrontation to cooperation. For that reason I respectfully ask each member of your caucus to reconsider this policy. I have voted for every Comp Reform package that has passed in the past ten years. I have done so in spite of my misgivings and strong objections of many of my most loyal supporters. Each reform was driven by employers and insurance interests and at the end of it all benefits have been reduced by over 50% and the costs have gone up over 60%. The only rational response to this history is to step back from this issue and cause a systematic review to be made. That is why the Guy Gannett Publishing Company and other Maine Employers have called for a Blue Ribbon Panel to review the whole system. That is the reason Democratic Leadership and many rank and file Legislators have endorsed this idea. What we need is the time and the forum for a balanced, detached, and system wide review of our means of protecting Maine people from the effect of injury at the workplace at an affordable and reasonable rate. What we don't need is more squabble encouraged by efforts to glean partisan advantages that at best offer more of the past. Maine people deserve our best effort not the by products of our worst instincts. Be assured that whatever course you and your caucus choose to follow, I will do my best to preserve an atmosphere of cooperation. Be advised under no circumstances will this Legislature stay in session one day longer than necessary to do our work. When we have done all we can reasonably expected to do, given the disposition of the parties, we will go home. This time we can not and will not allow the Senate to remain in session costing Maine people money so Maine politicians can play political games. I urge you and each of your members to talk with me as soon as possible about this issue. I hope we can reverse the confrontational nature of your decision. In addition to that I had also sent a letter to each member of the Republican Caucus asking if they would stop by including a letter that I had sent from the good Senator from Franklin, Senator Webster.

This afternoon as we were coming into session I received a response from the good Senator of Franklin, Senator Webster. It is equally important that this be in the record: "Dear Senator Pray: I found your letter of February 12 to be unfortunately extremely partisan. Although you may find it hard to believe I am not alone in my concern with the Bond Proposal being suggested by Democratic Leadership and the Governor. Some of us in the Legislature, I would suggest perhaps a majority of the citizens of Maine, do not support the concept of Government creating jobs. Instead they believe it is the role of the private sector to stimulate the creation of jobs for the people of Maine. Despite my strong beliefs in this area I am willing to support some Bonding Proposals to repair and improve our infrastructure as I have told you. The question is at what level and more importantly who will pay to retire these Bonds if we don't at the same time do something to assure that more Maine people in the private sector are working. I fully understand your pursuing this Bond Proposal considering the fact you have long supported the viewpoint of Centralized Government and the belief that Government can solve most if not all of society's problems.

In direct response to your letter several points need to be made. First, I make no claim to speak for my caucus in this matter. I must reiterate the concerns of many of my colleagues who share my view that this Session of the Legislature must deal with the important issues of creating jobs for the people of our great State in other areas than just borrowing and expanding the State debt. Your well publicized suggestions that this Legislature must enact a major Bond Package (\$100,000,000+) to create jobs for our citizens obviously falls within your line of thinking and your philosophy. I only suggest I have never seen Government as being a solution to creating jobs. Simply said long term financial stability of our citizens must come from a better economy and more jobs in the private sector. Second, I find your continued reference to your support of previous Workers' Compensation Package to be misleading to say the least. It is my opinion you have been very effective in working "behind the scenes" to defeat or neutralize every meaningful reform of Workers' Compensation offered in the last ten years. Although the record may show you have voted for these reforms that record does not tell the whole story. Finally, I appreciate your comments regarding your concerns with the fact that one party should never come before the needs of the citizens of our State. For this reason I have taken the liberty of forwarding a copy of this letter to our colleagues in the Senate to clarify my position in this matter. During the upcoming several weeks many important matters will come before the Legislature dealing with the issues of jobs and the job climate in our State. As we work together to enact meaningful Legislation in this area I appeal to all members of the Maine Senate, regardless of Political Party, to work together and reform Maine Laws so that our citizens can remain employed and improve their job opportunities. In closing I would ask you to allow your membership to vote their conscience on the issues of Workers' Compensation Reform. The people of Maine are pleading with us to offer leadership in this area before it is too late. To many jobs have been lost already. We can't afford to lose anymore. Sincerely, Charlie W. Webster."

The reason I read this is because I wanted to clarify first of all after the Session Senator Webster did come down to my office and I appreciate the fact in all candidness. He came in and ask to talk to me for a second. As I recall he said I don't want you to be blind sided, I wanted to let you know. What threw me off was he said We have taken a position. I interpreted the We to mean, coming from the Minority Leader, the caucus that he represented. He did not state that the Republican Caucus has taken that position. I misinterpreted the word we obviously by the letter he followed up. In my response and there is a number of things I disagree with in his letter, but I am not going to deal with that. I think the issue we both called for is the fact that the good Senator from Franklin, Senator Webster as well as myself philosophically may differ becomes somewhat immaterial. I have stated before I think each and every member stands here believing they are representing their constituency and trying to put that thought forward. What I did in my letter obviously is an attempt to, I perceive, to diffuse what I thought was going to be a situation which would not be beneficial to this State. Later on we will have an opportunity to discuss what Bond Proposals are intended to do because we do not disagree as to what the goal is. The goal is to stimulate the economy. The goal is to provide employment to the private sector. Those Bond Issues are not bureaucratic governmental jobs, they are private sector jobs improving the infrastructure which he stated as a major concern of his and the members of his party. For that I applaud him.

In reference to the role of Political Leadership and the role of us as leaders to our own individual caucus, each and every one of us can only answer as to whether or not political leaders tell us how to vote. In my tenor in this Senate, I don't think I have ever told any member how to vote. I have never ever told a member how to vote. I have never told them they had to vote or that they have to vote a particular way on an issue. Members of my party have always been mavericks and free to go the way they feel on issues and on numerous issues have. I wish sometimes we had the party discipline that the good Senator from Franklin, Senator Webster showed last year. An unfortunate sequence of events that ended up making us all look bad. At the end of Session I came off the Rostrum and offered my hand to the Governor of this State and to the members of the Minority Party to work to put Maine back on track and solve the financial crisis on the State basis and continue to do that. We have been very fortunate in working with the Administration, with members of the Housing and Economic Development Committee, Appropriations Committee, and Transportation Committee, at my recommendation, that those Committees Representatives from both Political Parties, Chairs of those Committees and the ranking Republicans sit down and put together that Bond Package on their own. I have been working with the Administration and with the Job Commission which Senator Brannigan recommended last year and there was almost a partisan flap over that as to whether the Governors Job Summit was preempted by Senator Brannigan's suggestion. It went to show that minds were working in similar nature to try and address the problems facing this State. It was my conversation with the Governor that diffused the question of who was going to get credit for trying to address jobs.

I sat at both the Bangor and the Portland Job Summit meeting held by the Governor with the Governor and listened to people express concerns about the economy, not because I perceived that it is a partisan battle.

We jointly need to address this economic situation. It is a national problem. It is a national problem and Maine can do a very minor amount of action that will impact on that. The leadership really needs to come from Washington but we can provide some incentives and action here that helps starting the economy to return. I have worked with the Governor of this State, I have talked to members of the Minority Party about where that Jobs Commission activity is going. I have sat in that Job Action Committee and listened to them and I think we have diffused some reports that have come out of there that could have been of a partisan nature. I do take some exceptions to some comments the Senator from Franklin, Senator Webster had in his letter but that is a personal philosophical objection I have. I am going to take his letter, similar to one of the people I held in high esteem and got me interested in politics when he received two letters from a leader across the sea, had two letters in the early 1960's and had a choice of which letter to take, I am going to take the sections of the letter that calls upon us to work together to provide stimulus for the economy so the private sector, which I firmly believe in and am a participant of, can do what it can to help people who are in a very distressful and fearful situation. We can not play upon the fears of the people of this State during these economic times. It is not to the Institutions advantage, nor the individuals advantage, and it is not to the fiber of this Nations advantage for anybody to try and play upon those fears. We need to be very above board. We need to address these issues in a very candid way, recognizing opposing philosophies and viewpoints, and opposing suggestions as to how we can solve this. In the time that has occurred so far in this session I think we have attempted to do that. I must compliment members of this Chamber and I thank members of the entire Legislature that the work in the various Joint Standing Committees have gone on far better this year than I had expected at the end of the last session. That is not to the compliment of any one individual. I can not take credit for that, the Senator from Franklin Senator Webster can not take credit for that, and the Governor can not take credit for that. It is what each and every one of you in your evaluation of how terrible this institution looked at the end of last year, that you individually addressed and said we need to move on. It is my hope that the good Senator from Franklin, Senator Webster and I can work together to get people back to work, move the State out of the recessionary times it is in and get it back on a solid fiscal track. As the Governor said in a sense that it's a Government we can afford. It is that light which restructuring is being talked about. The activity of many members in trying to put together a leaner meaner Government that delivers the services to the people it serves. With that I want to again extend my hand to the Senator from Franklin, Senator Webster. As he pointed out the goals of his people, we share those common goals. We sometime differ on

how to obtain those goals. It is only in a Democracy that we have the right to stand here and talk about those different tracks, to talk about how we can achieve it for the betterment of all the citizens of our State. Thank you very much Madam President.

Senator **WEBSTER** of Franklin was granted unanimous consent to address the Senate on the Record.

Senator **WEBSTER**: Thank you Madam President. Ladies and Gentlemen of the Senate. These are indeed interesting times and the phrase that politics makes strange bedfellows probably will hold true during this Second Regular Session of the 115th Legislature. Five years ago, maybe even two years ago, I would have stood on this floor and debated till the cows came home completely, absolutely, philosophically opposed to any type of borrowing proposal to create jobs. The function of Government is not to create jobs. It is that simple. I believe that philosophically. I have said it for years. It is not something Government should do. Jobs come from the free market system. This Legislature needs, as it has for the last thirty years, to try to improve our laws so we can create jobs in the private sector. These are strange times and I have said to the Governor, to President Pray, and Speaker Martin, that I would be willing personally as I think many people on both sides of the isle to look at this problem. This has been a hot discussion item out there in the street for a long time. People are wondering why would you even consider doing that when we voted it all down in November. Regardless, these are strange times and we may have to do this to somehow stimulate the economy. As I told the good Senate President several days ago, there are some of us who have some really strong philosophical problems with this concept. I have said all along I would be willing to look at it. I think the Legislature would be gravely mistaken if we did not look at where jobs come from. I told the Senator from Penobscot, Senator Pray in several meetings I have had with the Governor including today, we discussed what we need to do to stimulate the economy.

Several weeks ago a shoe factory closed in Lewiston. Ninety or Ninety Five people left the state and went down the road ninety five miles and put those ninety five jobs in New Hampshire because of Workers Compensation. It is a big problems and needs to be dealt with. I assume that we will deal with this problem. I am hopeful we will. I want to talk about the Bond because it is a real concern to me. Maine, I love this State and the people, we have many statistics which deal with the State of Maine that are scary. Maine is one of the highest taxed states and we have one of the worst business climates. If you look at all the various statistics which affect our State, one of the things that we excel in is we have a low debt compared to other States in New England. We have one of the lowest debts in the Country. Our debt is somewhere around 54% of a total State budget. We should seriously look at whether we want to increase that. If we do increase that, contrary to what some of us want to do, then what are we going to do to create jobs in the private sector. We need to look at that and my suggestion all along has been that we need to have a package. We need to look at this as a big picture and not just a way to appease a few special interest and try to create jobs some contract out there. We

need to look at the whole picture and we need to work together to do that. I think this conversation the last several days is healthy. We need to look at how we are going to solve and move forward to the nineties and move forward with the issues of the day. I do think we need to look seriously at what level we can afford. We can not expect the voters of this State to pass a Bond Package. I have said this to Speaker Martin and others, we can not expect the people of this State to pass a Bond Package unless it has nearly unanimous support from the Legislature. Not 2/3, nearly unanimous because there is no way the voters of this State who turned down a Bond Issue three or four months ago are going to accept this type of proposal unless it has complete support from the Legislature. I suggest one way to get complete support is to look at the big picture. I have said that before, I believe that, and I welcome the comments from the good Senator from Penobscot, Senator Pray. I hope we can all work together from this point forward. Thank you.

Off Record Remarks

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **TITCOMB** of Cumberland, **ADJOURNED** in memory of Misty Cote, Michaela Herrick, and Jessica Herrick until Tuesday, February 18, 1992, at 4:00 in the afternoon.