

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record
House of Representatives
One Hundred and Nineteenth Legislature
State of Maine

Volume II

First Regular Session

May 13, 1999 – June 19, 1999

Second Regular Session

January 5, 2000 – March 22, 2000

ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
15th Legislative Day
Thursday, March 16, 2000

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

Prayer by 1st Lieutenant Glenn A. Palmer, Chaplain, 152nd Field Artillery Battalion, Maine Army National Guard, Friendship.

National Anthem by Virginia Palmer, University of Maine, Augusta.

Pledge of Allegiance.

Doctor of the day, Jacob W. Gerritsen, M.D., Camden.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Clarify the Laws Relating to Corporate and Other Entities"

(H.P. 1664) (L.D. 2333)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818) AS AMENDED BY HOUSE AMENDMENT "A" (H-826)** thereto on March 3, 2000.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818) AS AMENDED BY HOUSE AMENDMENT "A" (H-826)** thereto on March 9, 2000, in concurrence.

- **RECALLED** from the Engrossing Department pursuant to Joint Order (S.P. 1036)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-818) AS AMENDED BY SENATE AMENDMENT "A" (S-533) AND HOUSE AMENDMENT "A" (H-826)** thereto in **NON-CONCURRENCE**.

Representative THOMPSON of Naples moved that the House **RECEDE AND CONCUR**.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Mr. Speaker, Men and Women of the House. This amendment, which was added to the bill is a technical amendment, which was correcting a flaw discovered by our outstanding committee on engrossed bills. Thank you.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Clarify the Process for a County Bond Referendum Election"

(H.P. 1706) (L.D. 2412)

Minority (3) **OUGHT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on March 7, 2000.

Came from the Senate with the Majority (10) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-805)** in **NON-CONCURRENCE**.

On motion of Representative AHEARNE of Madawaska, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Resolve, to Recognize Veterans of the Vietnam War in the State House Hall of Flags

(H.P. 1765) (L.D. 2471)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) in the House on March 9, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-837) AND SENATE AMENDMENT "A" (S-540)** in **NON-CONCURRENCE**.

Representative AHEARNE of Madawaska moved that the House **RECEDE AND CONCUR**.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House. The amendment that was added on makes a technical change and makes no major substantive changes to the bill itself.

The House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 378)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

March 9, 2000

Honorable Mark W. Lawrence, President of the Senate

Honorable G. Steven Rowe, Speaker of the House

119th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1922 An Act to Establish the Maine Internet Policy Act

L.D. 2105 An Act to Improve the Maine Economy Through Small Businesses

L.D. 2502 An Act to Support the Maine Rural Development Council and its Community Capacity Building Work in Distressed Rural Areas in the State

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Carol A. Kontos

Senate Chair

S/Rep. Gary O'Neal

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 379)

STATE OF MAINE

ONE HUNDRED AND NINETEENTH LEGISLATURE

**COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

March 14, 2000

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 1726 An Act to Ensure Fair Competition within the Motor Fuels Industry
L.D. 1789 An Act to Improve the Licensing Procedures for Veterinarians
L.D. 2478 An Act to License Cued Speech Transliterators for the Deaf and Hard-of-hearing

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Carol A. Kontos
Senate Chair
S/Rep. Gary O'Neal
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 380)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON LABOR**

March 14, 2000

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 2430 An Act to Provide Pension Equity for Mental Health Workers

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Neria R. Douglass
Senate Chair
S/Rep. Pamela H. Hatch
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 381)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

March 14, 2000

Honorable Mark W. Lawrence, President of the Senate

Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Appropriations and Financial Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 807 RESOLUTION, Proposing an Amendment to the Constitution of Maine Establishing a Rainy Day Fund

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Michael H. Michaud
Senate Chair
S/Rep. Elizabeth Townsend
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 382)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 13, 2000

The Honorable Mark W. Lawrence
President of the Senate
The Honorable G. Steven Rowe
Speaker of the House of Representatives
119th Legislature
Augusta, ME 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Board of Pesticides Control under the State Government Evaluation Act. In its review, the committee found that the board is operating within its statutory authority.

Sincerely,

S/Sen. John Nutting
Senate Chair
S/Rep. Wendy Pieh
House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (H.C. 383)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 13, 2000

The Honorable Mark W. Lawrence
President of the Senate
The Honorable G. Steven Rowe
Speaker of the House of Representatives
119th Legislature

Augusta, ME 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Wild Blueberry Commission of Maine and the Wild Blueberry Advisory Council under the State Government Evaluation Act. In its review, the committee found that the commission and the advisory council are operating within their statutory authority.

Sincerely,

S/Sen. John Nutting

Senate Chair

S/Rep. Wendy Pieh

House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (H.C. 384)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 13, 2000

The Honorable Mark W. Lawrence

President of the Senate

The Honorable G. Steven Rowe

Speaker of the House of Representatives

119th Legislature

Augusta, ME 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Maine Seed Potato Board under the State Government Evaluation Act. In its review, the committee found that the board is operating within its statutory authority.

Sincerely,

S/Sen. John Nutting

Senate Chair

S/Rep. Wendy Pieh

House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (H.C. 385)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 13, 2000

The Honorable Mark W. Lawrence

President of the Senate

The Honorable G. Steven Rowe

Speaker of the House of Representatives

119th Legislature

Augusta, ME 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Department of Conservation under the State Government Evaluation Act. In its review, the committee found that the Department is operating within its statutory authority.

Sincerely,

S/Sen. John Nutting

Senate Chair

S/Rep. Wendy Pieh

House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (H.C. 386)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT
MEMORANDUM**

TO: The Honorable Mark W. Lawrence, President of the Senate

The Honorable G. Steven Rowe, Speaker of the House

FROM: S/Senator Carol A. Kontos, Senate Chair

S/Representative Gary L. O'Neal, House Chair

Joint Standing Committee on Business and Economic Development

DATE: March 15, 2000

RE: Government Evaluation Act review of the Maine State Housing Authority

We are pleased to submit the report of the Joint Standing Committee on Business and Economic Development with respect to our review of the Maine State Housing Authority pursuant to the Government Evaluation Act, Maine Revised Statutes, Title 3, chapter 35.

A copy of our report is attached. The committee found that the Authority is operating within its statutory authority, has clearly articulated its mission and continues to focus its resources to provide programs essential to that mission. The committee endorses the purpose of the Authority expressed in statute and finds that the activities of the Authority are consistent with that purpose. We have, however, also found that administrative changes should be undertaken by the Authority in order to ensure an appropriate level of oversight and uniformity in certain Authority programs. Those recommendations for administrative change are outlined in our report.

Thank you.

READ and with accompanying papers ORDERED PLACED ON FILE.

The Following Communication: (S.C. 561)

SENATE OF MAINE

**OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333**

March 15, 2000

The Honorable G. Steven Rowe

Speaker of the House

119th Maine Legislature
2 State House Station
Augusta, Maine 04333

Dear Speaker Rowe:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, the nominations of the Honorable Howard H. Dana, Jr. of Portland for reappointment as an Associate Justice of the Maine Supreme Judicial Court, the Honorable Ellen Gorman of Durham for appointment as a Maine Superior Court Justice, the Honorable Nancy D. Mills of Cornville for reappointment as a Superior Court Justice, the Honorable Rae Ann French of Augusta for appointment as a Maine District Court Judge, and Linda E. Abromson of Portland for reappointment and Warren C. Kessler of Readfield for appointment to the Maine Human Rights Commission.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills were received, and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committee, ordered printed and sent for concurrence:

APPROPRIATIONS AND FINANCIAL AFFAIRS

Bill "An Act to Promote Equity in Funding of Ferry Services"
(H.P. 1894) (L.D. 2635)

Presented by Representative DUDLEY of Portland.

Cosponsored by Senator ABROMSON of Cumberland and Representatives: LINDAHL of Northport, MCKENNEY of Cumberland, McNEIL of Rockland, PIEH of Bremen, SKOGLUND of St. George, VOLENIK of Brooklin, Senators: KONTOS of Cumberland, PINGREE of Knox.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Bill "An Act to Fund the State's Share for Salt or Sand-salt Storage Facilities Construction" (EMERGENCY)

(H.P. 1897) (L.D. 2637)

Presented by Representative BUMPS of China.

Cosponsored by Representatives: RINES of Wiscasset, SAVAGE of Union, WESTON of Montville.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

ORDERS

On motion of Representative JOY of Crystal, the following Joint Order: (H.P. 1895)

ORDERED, the Senate concurring, that the Joint Standing Committee on Judiciary consider and report the advisability of proceedings by address to the Governor or otherwise for the removal of Andrew Ketterer, Attorney General, accompanying its report with a form of such resolution or other process as it may recommend for the first step in such a proceeding by address.

READ.

The same Representative moved that the Joint Order be **TABLED** one legislative day pending **PASSAGE**.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **TABLE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Table. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 463

YEA - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

NAY - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Ethier, Fisher, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Frechette, Mack, McKee, Quint, Savage C, Stevens, Usher.

Yes, 70; No, 74; Absent, 7; Excused, 0.

70 having voted in the affirmative and 74 voted in the negative, with 7 being absent, and accordingly the motion to **TABLE FAILED**.

Representative SAXL of Portland moved that the Joint Order and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE** the Joint Order and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you not to Indefinitely Postpone this order. I would like to share with you some thoughts on the matter. I sent this letter out to the Speaker, the Chief Executive, the chairs on both sides of the hall, both parties and I would like to share that letter with the members of the caucus and also the members of the other caucus.

"During our service to the state and the House of Representatives over the past eight years, you have heard me express concern about people taking an oath office to uphold the Constitution of the State and the nation and then doing things, which appear to violate that oath. I have had increasing concerns since Representative Waterhouse made his comments on the record to the House of actions taken by an assistant to

the AG and later upheld by the AG. Since that time, several people have contacted me with other matters of concern about actions taken by the AG, his staff and so forth. The concerns expressed to me appear to have reached the level where some action needs to be taken to determine whether the acts warrant removal from the office. I could go directly to the AG, but that would not provide the opportunity to determine whether or not the allegations have reached the level for removal. To that end, I am issuing the following order to the House Calendar. I have pursued to process with the Revisor's Office and there are two methods to be used. According to Title 9, Section 5 of the Maine Constitution, the issue may be pursued by impeachment or address. Impeachment has never been used in Maine according to research, but Address has been used on four separate occasions, the last time being in 1941. I sincerely regret the necessity of taking such action, but can see no other alternative. We all must answer to the people of the State of Maine for our actions as elected representatives of the people. I would be remiss if I took no action in this matter. I will forward copies of this letter to the people I had mentioned before. It is my intent to present the order and request that it be tabled one legislative day so that the caucuses may determine what action they may wish to pursue in this matter." I see I am trying to be denied that opportunity. "While many may wish to tag this matter as a partisan action, I think that everyone in the Legislature knows that I would pursue this action with members of my own party as well as the other. Having belonged to each of the major political parties for an equal amount of time in my political life, it may make me the best candidate in either body to pursue this. My duty is to the people of the state and not to a political party."

Ladies and gentlemen, by denying this order, you are also denying our Attorney General the opportunity to exonerate himself. I rest my case.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I hope that you will vote against the present motion. As a member of the Judiciary Committee, I find no fault in the order. I do have concerns and I voiced them on the floor of the House not too long ago. There are a number of other concerns that have come forward. It is my contention that nobody, absolutely nobody, should fear accountability. All this asks is to send this issue before our committee to take a look at it. If it has no merit, it will recede swiftly. If it has merit, we will know how to proceed from there. I think, at the very least, as the good Representative from Crystal said, if there is no problem, then the Attorney General deserves to know about that from us. If there is a problem, I think the people in the State of Maine deserve also that look from us. Thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I ask you to please vote against this motion to Indefinitely Postpone. As a member of the Judiciary Committee, I would like to have this come before me. I will tell you why. In the last month or two different allegations have come to me as a member of the Judiciary Committee and as a member of this body. They deal with inappropriate handling of investigations by the Attorney General's Office, the inappropriate and misuse of grants received by the Attorney General's Office, the inappropriate misuse of the powers of the Attorney General's Office in impeding investigations and impeding employees of the

Attorney General's Office in receiving justice at the hands of some of our commissions. They involve, not threats, but innuendos of threats against members of this body for statements made in this body and as part of the duties of this body. With a person who is accountable to no one, but us, because he is elected here, then the person in the Attorney General's position has no one to answer to but us, and there is no one to investigate him, but us. If you turn this down, then you will have told him that there is no accountability. I am glad there is a roll call coming up because I want him to know who tells him he has no accountability and who tells him he does. With allegations as serious as this and the accountability level, we owe a duty to the people of the State of Maine to make sure that the highest law enforcement person in this state is above reproach. The allegations that have come forward are serious. The position is political. The decision is yours. I hope that you will take it very seriously. You elected this person. You are responsible for his actions to the people of the State of Maine. Do not shirk your responsibility. Thank you.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. I hope you will take this very seriously. I was hoping to not have to stand and dignify this order today, but I find myself in a place where it is critical for us to take this very seriously. This is nothing more than politics for politics sake. This is the very worst kind of politics. While we sit here in this chamber, we could be talking about health care for children. Could the Representative please defer?

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse. For what reason does the Representative rise?

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I apologize, but I resent the implication that there is a political motive behind this. It impugns my motives and I don't care for it. Thank you.

The SPEAKER: The Chair would find the Representative is responding to a previous speaker with his comments. The Representative may continue.

Representative **SAXL**: Thank you Mr. Speaker. I continue to find this a very serious matter. Not since 1914 has the Maine Law Court even talked about address, not since 1942 has anybody in this state been addressed or removed from public office. It was not done so lightly. In the law court decision it said, "not merely trivial or capricious, but for a substantial matter in a legal cause." We have no legal cause here before us today. More importantly, ladies and gentlemen of the House, the person bringing forth this order has not even gone to the effort of speaking to the Attorney General. He has not even gone through the effort of writing a formal letter of inquiry to the Attorney General. He has not ever done anything but publish press releases in the *Adams Report* and through the Minority Office. This should not be a partisan issue today. This is about this institution, whether you put your party in front of this institution or whether you put yourself and your own interests in front of this institution or whether you put this institution first. This is not a small matter.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy. For what reason does the Representative rise?

Representative **JOY**: Thank you Mr. Speaker. We have been instructed from day one since we have been in the Legislature that the remarks are made to the Speaker, not theatrically back to the rest of the House. I sincerely take objection to the method in which the leader in the other corner is addressing this matter.

The **SPEAKER**: The Chair would again rule that it is the chair's opinion that the Representatives are responding to previous speakers. The Chair gave latitude to previous speakers. The Chair would find that this Representative is responding to those comments. The Representative may continue.

Representative **SAXL**: Mr. Speaker, Men and Women of the House, if I might continue. We have a very serious matter in front of us today. We are talking about raising a constitutional issue of crisis before this body. In a report in 1982, reviewing how to perform address, we found in this body that there must be clauses attached to the qualifications of the officer and attached to the order in front of us. We don't have an allegation, but we have a witch-hunt. We don't have specific problems stated in this order in front of you today. We have broad sweeping, I heard from somebody and I heard from somebody else. What we have here is merely politics. What we have here today is an effort to unseat an individual without giving them or you the opportunity for the allegations. This is of the utmost seriousness, ladies and gentlemen of the House. I ask that you deal with this quickly and efficiently putting this body in front of your party and of yourself. I ask that you think about the confidence that we want to instill in people in this body. We don't, just merely on a whim, go after somebody whose political beliefs we don't agree with. We don't go after somebody to unseat them in this chamber or to unseat them from their office because we disagree with their position. An order of address should be reserved for the greatest violations of the law. We do not have any violations of the law before us today. I ask that you quickly and expediently deal with this matter so that we can get on to the business that we should be dealing with, addressing issues that line the halls here. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. We have heard a comment made about impeachment. I didn't hear that in the order. I didn't hear that on the previous speeches. I am going to vote against the motion of Indefinite Postponement and I will give you a reason why. Her name is Paula Baker. This Legislature has gone along and taken very strong action to give support, to give advocates to the families who are victims and to the victims in court. I think there needs to be an opportunity before that committee as to why she is not on the job and why those victims' families are being unsupported. I don't see an issue of impeachment. I think that the Judiciary Committee needs to take a look at that specific issue. When I look up at that board, my thoughts are of Paula Baker and the victims' families. I would like to have that committee be able to talk about why those victims' families are not being protected in the court and getting the support that they should have. I will be voting against that motion.

The **SPEAKER**: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. May I read the order, Mr. Speaker?

The **SPEAKER**: The Representative may read the order.

Representative **PLOWMAN**: "On motion of Representative JOY of Crystal, the following Joint Order: (H.P. 1895. ORDERED, the Senate concurring, that the Joint Standing Committee on Judiciary consider and report the advisability of proceedings by address to the Governor or otherwise for the removal of Andrew Ketterer, Attorney General, accompanying its report with a form of such resolution or other process as it may recommend for the first step in such a proceeding by address."

This is a reference, ladies and gentlemen, for a hearing before a Joint Standing Committee where the facts will be aired. This is not the place to debate the facts yet. The facts will be brought out in a public hearing where there will be ample time for proponents, opponents and people neither for nor against to speak to the committee and then for the committee to determine, by vote, and prepare a report based on what is presented and then come back to you for the debate that is asked for here today. It is not appropriate to debate here today. We are deciding a reference. We are deciding should we look into these matters? I think misuse of grants and misuse of authority certainly the attempt to keep an employee of the State of Maine from receiving even an advocate at the workers' comp level because of a phone call from the Attorney General's Office should be verified, discussed and determined whether it is appropriate. I know as an employer that if I called the Workers' Comp Commission and said, "Please doesn't give my employee an advocate." I know where I would be right now. I would be paying some pretty stiff fines and they would be coming out of my own pocket because I would be held personally liable. That is the way the law reads. We are asking for a reference to a committee. Please tell me the last time this body refused to reference an issue to a committee. Please tell me someone. That is a violation of our abilities to bring matters before the Legislature. You may vote this down and you are voting down a reference. What you are worried about will come out in a public hearing.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Ladies and Gentlemen of the House. I apologize to the Representative from Hampden. I certainly didn't mean to interrupt. I am rising to answer her question. In regards to the last time somebody in this House voted against a reference, the Representative from Hampden voted against a reference to committee yesterday, as did the Minority Floor Leader and the Assistant Minority Floor Leader.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. In answer to the real question that was asked, when was the last time a bill wasn't referenced to committee? It was my bill last year and the Majority Leader voted against that, as did the person who said the other day that we shouldn't set this precedent and accused our party of setting that precedent. It was set against me by many members of the majority party. I, however, did vote to reference the bill the other day.

I am confused about something. If this is an important issue, a constitutional issue, which we should be putting the body above politics, why are we afraid to look at it? What is there to be afraid of? If there is nothing here, as was pointed out, why can't we decide that? Why can't we even let this go for a day, table for a day, and caucus and at least discuss it amongst ourselves to find out if there is any truth to it? It smells like there is probably something there that we are trying to hide and cover

up and who cares about the people of Maine and if their rights are being protected, we will just cover it all up. I don't know if there is any truth to this or not. That is not what we are voting on. We are voting on Indefinitely Postponing and even looking into, if there is any truth to it. I have heard a lot of stuff since I have been up here and I told a lot of stuff to the people back home when I ran that we are not all that bad up here and that it isn't all partisan politics. We do really care about the people of Maine. I don't know. To just throw this away and have it be right down a party line vote and somehow it is happening because of some horrible allegation against our Attorney General. We are not throwing the Attorney General out. I am not voting to throw the Attorney General out. I find it offensive that anyone would assume that. If I remember correctly, the Attorney General got 117 votes. Clearly many Republicans voted to put him in that office. What is wrong with caucusing about it and waiting a day? What is wrong with looking into it? Everyone claims it is nonpartisan. It is obvious it is. I don't understand it.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Mr. Speaker, Men and Women of the House. Should the House of Representatives look into a pending case before the courts as the Minority Leader suggested? I think not. That case that he referenced is a case that is pending in our court system and has not reached a conclusion. This shouldn't be partisan. Who brought this? Who has spoken in support of it? We shouldn't be partisan. What we should do is stop this now before it affects the rest of this session. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. On the record, I would like to advise the body that I did not vote yesterday on this matter, but I do understand that the bill was referenced. In essence, I would like to correct the record. The bill was referenced and I was not on the roll call in either capacity as for, nor against.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative O'BRIEN: Mr. Speaker, Men and Women of the House. I apologize. I would like to pose a procedural question to the chair. This discussion has left me with more questions than answers. I would like to know if it is appropriate to ask, again, to table the motion?

Representative MURPHY of Kennebunk moved that the Joint Order be **TABLED** one legislative day pending **PASSAGE**.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **TABLE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Tabled One Legislative Day pending Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 464

YEA - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Campbell, Carr, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque,

Lemont, Lindahl, Lovett, MacDougall, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Winsor.

NAY - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bumps, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Cameron, Cianchette, Frechette, Mack, McKee, Murphy E, Quint, Stevens, Usher, Wheeler EM.

Yes, 65; No, 76; Absent, 10; Excused, 0.

65 having voted in the affirmative and 76 voted in the negative, with 10 being absent, and accordingly the motion to **TABLE FAILED**.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative DAIGLE: Mr. Speaker. I would like to pose a question to the Chair. Under the Joint Rules adopted by this body, if we end up Indefinitely Postponing this current order, would we be prohibited from introducing an order on this subject for the remainder of the 119th Legislature?

The SPEAKER: The question has been posed to the Chair that if this order is finally rejected today may it be introduced at another time later during this Legislature's term? That is what the Chair understood to be the question. The Chair has researched the issue. The Chair would rule the Rule 404 under the Joint Rules addresses the question or answers a question. The Rule 404 says, "A bill or resolve, constitutional resolution, resolution memorial or order that is finally rejected, may not be recalled from the legislative files, except by Joint Order approved by a vote of two-thirds of both chambers." The chair knows that rulings in the past have ruled that orders that are substantially the same would fall under this. Rule 404 is the rule that would apply. That is the chair's response to the question of the Representative.

Representative PLOWMAN of Hampden moved that the Joint Order and all accompanying papers be **COMMITTED** to the Committee on **JUDICIARY**.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **COMMIT** the Joint Order and all accompanying papers to the Committee on **JUDICIARY**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Commit the Joint Order and all Accompanying Papers to the Committee on Judiciary. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 465

YEA - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland,

Labrecque, Lemont, Lindahl, Lovett, MacDougall, Madore, Marvin, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Treadwell, True, Waterhouse, Weston, Winsor.

NAY - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bumps, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fuller, Gagne, Gagnon, Gillis, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tracy, Trahan, Tripp, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Cameron, Fisher, Frechette, Mack, Murphy E, Quint, Stevens, Usher, Wheeler EM.

Yes, 62; No, 80; Absent, 9; Excused, 0.

62 having voted in the affirmative and 80 voted in the negative, with 9 being absent, and accordingly the motion to **COMMIT** the Joint Order and all accompanying papers to the Committee on **JUDICIARY FAILED**.

The **SPEAKER**: A roll call having been previously ordered. The pending question before the House is to Indefinitely Postpone the Joint Order and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 466

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bryant, Bull, Bumps, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gillis, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tracy, Trahan, Tripp, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Campbell, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lovett, MacDougall, Madore, Marvin, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, Peavey, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Treadwell True, Waterhouse, Weston, Winsor.

ABSENT - Cameron, Frechette, Mack, Murphy E, Quint, Stevens, Usher, Wheeler EM.

Yes, 87; No, 56; Absent, 8; Excused, 0.

87 having voted in the affirmative and 56 voted in the negative, with 8 being absent, and accordingly the Joint Order and all accompanying papers were **INDEFINITELY POSTPONED**.

On motion of Representative **SIROIS** of Caribou, the following House Order: (H.O. 38)

ORDERED, that Representative Peter E. Cianchette of South Portland be excused Friday, March 3, 2000 and Tuesday, March 7, 2000 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Earl E. Richardson of Greenville be excused Tuesday, March 14, 2000 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Kevin L. Shorey of Calais be excused Tuesday, March 7, 2000 for personal reasons.

READ and PASSED.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

the members of the Winslow High School Hockey Team, winners of the State Class B Hockey Championship. We extend our congratulations to the team on this achievement;

(HLS 1086)

Presented by Representative **MATTHEWS** of Winslow. Cosponsored by Representative **MITCHELL** of Vassalboro, Senator **DAGGETT** of Kennebec, Senator **CAREY** of Kennebec.

On **OBJECTION** of Representative **MATTHEWS** of Winslow, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Winslow, Representative **Matthews**.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. It is with some great deal of pride today that I want this body to recognize the State Class B Hockey champions, Winslow High School. They are here upstairs in the gallery. As my seatmate, the good Representative from Madison, Representative **Richard**, reminded me as a former educator that they got a good class in government this morning. We are very proud in Winslow of the achievements of the coaches and the team. As the coach reminded me this morning, this is the fourth state championship in five years in Class B hockey. They defeated, this year, Yarmouth High School 3 to 2, I believe was the score in overtime. The Town of Winslow really loves its hockey. We have a long tradition of hockey in Winslow now and actually in sports teams in general and academics also. I am sure if the entire community were here, they would join with me. I ask all of you to recognize these young athletes up there, good students, Coach Lee Bureau and the assistant coaches, David Maranda, Ryan Vigue and a gentleman by the name of "Spat" Roy that I have known for many, many years and these students. We are real proud of them. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative **Saxl**.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. As a former coach of the Yarmouth "Clippers" when they were state champions, I watched that game. You guys played your hearts out. It was a wonderful game. I enjoyed it with my mother who sits in this chamber with me. I think you guys deserved that win. I commend you for your excellent play and your good sportsmanship as well. You were great leaders out there that night.

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

Representative **MITCHELL**: Mr. Speaker, Men and Women of the House. As a resident of Vassalboro, I get to choose between a number of area high schools. I actually chose Waterville before coming to my senses three months later and transferring to Winslow. As proud a Winslow alumni, I would like to congratulate Coach Bureau and the rest of the team. It was, indeed, a thrilling game, back-to-back overtime games to win the Eastern Finals and then the State Championship. If anyone did see that game, the first goal was one of the most amazing goals you are ever going to see in a hockey game. Once again, I just wanted to congratulate them.

PASSED and sent for concurrence.

Recognizing:

the St. Mary's Boys Basketball Team, of Augusta, on its undefeated season and upon winning the Capital Area Middle School Championship. We extend our congratulations to the following members of the team: Marc Beaudoin, Eric Hachey, Ryan Polhemus, Brian Oches, Joseph Shaw, Adam Vachon, Joseph Ehirorbo, Matthew Donar, Matthew Oches, Greg Sousa, James Mayo, Adam Normandin and Coaches Gary Hawkins and John Hickey;

(HLS 1087)

Presented by Representative MADORE of Augusta.
Cosponsored by Senator DAGGETT of Kennebec, Representative O'BRIEN of Augusta, Representative MITCHELL of Vassalboro.

On **OBJECTION** of Representative MADORE of Augusta, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **MADORE**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to take this opportunity to welcome the boy's basketball team from St. Mary's here in Augusta. The students who make up this team worked very hard this past year and as a result were undefeated in this session as well as winning the Capitol Area Middle School Championship. We are pleased that the members of the team are here today serving as pages for this morning's session. On behalf of the citizens of Augusta, I would like to extend to them the best wishes of the community and congratulate them on a job well done.

PASSED and sent for concurrence.

Recognizing:

the Portland West Neighborhood Planning Council for its longtime sponsorship of the annual St. Patrick's Day Parade. The event has grown to become an important tradition in Portland's celebration of St. Patrick's Day. The parade reminds us of our friends and relatives who continue to work for lasting peace in Northern Ireland;

(HLS 1090)

Presented by Representative BRENNAN of Portland.
Cosponsored by Senator ABROMSON of Cumberland, Senator RAND of Cumberland, Representative DUDLEY of Portland, Representative SAXL of Portland, Representative McDONOUGH of Portland, Representative QUINT of Portland, Representative NORBERT of Portland, Speaker ROWE of Portland, Representative TOWNSEND of Portland.

On **OBJECTION** of Representative BRENNAN of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Portland, Representative Brennan.

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. I want to wish everybody an early St. Patrick's Day. Last year we had the good fortune of being here on March 17 and we were in session so we had the opportunity to wish everybody a happy St. Patrick's Day on the very day it happened. Secondly, I would like to invite everybody tomorrow to participate in the St. Patrick's Day Parade starting at 3:30 at Reiche School in Portland. It is the 20th Anniversary of that parade. It has really grown to be a significant parade in Portland and it truly does kick off the festivities for St. Patrick's Day within Portland and the greater Portland area. Lastly, in previous years on days close to St. Patrick's Day or just after St. Patrick's Day, there have been a number of Joint Orders that have been put forward having us pause to reflect on efforts in Northern Ireland to bring about peace. Many of us here have relatives or friends that have participated or have lived in Ireland and have been part of that effort to bring about peace. I am pleased to announce today, with the permission of the Speaker, that former US Senator George Mitchell has agreed to come on March 28 and jointly address both this House and the Senate and talk about the efforts in Northern Ireland. It will be our opportunity to thank him for his efforts and to further reflect and pause and examine those issues in Northern Ireland that many of us are so concerned about. Thank you very much, men and women of the House. Have a happy St. Patrick's Day.

PASSED and sent for concurrence.

In Memory of:

Brent R. Churchill, of Industry, son of Glendon and Donna Churchill, beloved fiancé of Kathy Bohlman and line worker for Central Maine Power Company. Born in Farmington, Brent lived most of his life in Industry and graduated from Mount Blue High School, where he excelled in football. Brent graduated from Kennebec Valley Technical College in 1990 and was hired as a line helper for Central Maine Power Company. Brent passed his line worker first class examination in 3 1/2 years and distinguished himself at his job during the ice storm of 1998, when his family did not even see him for 2 weeks. Brent died on December 12, 1999, after working 28 straight hours and over 41 of the last 55 hours while restoring power to his hometown of Industry. As a direct result of Brent's death, the company and the union ratified an agreement to address the problems of safety in the field, and in particular, overworked line workers. Brent will be remembered for his wonderful personality and smile. Brent will be greatly missed by his family and many friends;

(HLS 1083)

Presented by Representative GOOLEY of Farmington.
Cosponsored by Senator BENOIT of Franklin, Representative RICHARD of Madison.

On **OBJECTION** of Representative GOOLEY of Farmington, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. I stand before you today to pay a tribute to one of western Maine's finest citizens, Brent R. Churchill of Industry, whose life on this earth was a full one, but brief. It was a life that ended tragically while Brent was doing his thing, serving the citizens of western Maine, restoring power to rural homes on a very cold and windy day last December. Brent liked to help people. He was a people person, compassionate and generous. Brent loved the outdoors and sports. He played football and I mean he played football. I watched him play a Friday night game. He was an all-state team member for two years and he was the Mt. Blue Cougar Captain his senior year.

Brent studied electrical power after high school and graduated from the Kennebec Valley Technical College in 1990 and realized his dream of working for Central Maine Power in Augusta 1990. It is kind of ironic, but January 1998 won't be forgotten by most Maine citizens. The ice storm was an unusual event. Maine citizens learned how much we are dependent on electrical power. The job of restoring that power fell on the shoulders of the field linemen, including Brent Churchill. It was a dangerous period in the lives of those who restored the power. It was their finest hour. Brent was proud of his effort in restoring power to tens of thousands of Maine citizens.

Brent's engaging personality and terrific smile will always be remembered. It is fitting that we honor Brent here today. Brent departed this earth doing what he did best, serving other people. There can be no other greater or nobler thing to do for an aspiration than serving others. Linemen are a special group of people who know well the serving others principle. They go the extra mile out on the job in all kinds of weather and that is what they did in January 1998 and what Brent was doing on that faithful day last December. He was serving the citizens of Maine. Although his life was short, we, as Maine citizens, can only say, well done Brent. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I live in the Town of Wilton and Wilton is part of the district served by the Central Maine Power Company in which Brent was an employee. Brent worked hard to restore power, not only in the Town of Industry and the Town of Farmington, but also in Wilton and other surrounding towns. I wanted to rise today to let his family know how deeply we feel about his death. Brent was a terrific guy who worked very hard. Many years ago, I had the benefit of working for Central Maine Power Company on a line crew. I can tell you that these guys work really hard and they do very dangerous work. Brent was the best. He really did do a fantastic job. The final thing I wanted to let them know is that even though he has tragically left us, his death will serve to make some changes in the system, which I think will benefit people and linemen for years to come. I am grateful that the family is here and I wish to extend them my deepest condolences. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. Back on that December day when I opened my newspaper and saw this tragedy, I felt very sad that a young man had lost his life in this way. As I read down through the column, I realized that Brent's dad was one of those former students of mine many years ago. Therefore, at this time, I

would publicly like to express my most sincere condolences to Glen, Donna, all of the Churchills and to Kathy. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. The Churchill Family is with us today to honor a young man who was both a leader and a team player. As we have heard, he was one of the heroes of the ice age. We have also heard of the incredible pride he had in being a line worker, those men and women who keep us safe and warm. Today, the Maine Legislature shares with the Churchill Family both your pride and your sorrow.

ADOPTED and sent for concurrence.

In Memory of:

Richard E. Dobson, of Falmouth, beloved husband of Dorothy O'Brien Dobson. Mr. Dobson was the owner of Everett Dobson & Sons General Contractors for 40 years and was a founding partner of Dictar Associates Real Estate Developers and Consultants, serving as the president from 1979 to 1993. In that capacity, he was responsible for a number of developments in the greater Portland area, including the Marineast Complex, the Harbor Plaza Office Complex and the redevelopment of the former Fort McKinley on Great Diamond Island. Mr. Dobson was a member of the Chestnut Street United Methodist Church, the Cornerstone Lodge of Masons, the Valley of Portland Shrine Club, Order of the Eastern Star, the Falmouth Country Club, the Casco Bay Power Squadron, a life member of the JCI Senate #14939 and a founding member of the Falmouth Jaycees. He will be sadly missed by his family and many friends;

(HLS 1084)

Presented by Representative DAVIS of Falmouth.

Cosponsored by Senator ABROMSON of Cumberland.

On **OBJECTION** of Representative DAVIS of Falmouth, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. Just briefly, Dick Dobson and I lived on the same street for 36 years. I think he is a very good example of an American who started with very little and worked his way up and worked very hard. His three children grew up with my three children on the same street, Hamlin Road, for 36 years. He was a big man. He was a strong man, but a quiet man. I always remember him walking up and down the street as kind and considerate and hardworking. I will miss him very much. Thank you.

ADOPTED and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Statute

Representative PIEH from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to

Review of the Maine Seed Potato Board Under the State Government Evaluation Act"

(H.P. 1892) (L.D. 2633)

Reporting **Ought to Pass** pursuant to Maine Revised Statutes, Title 3, section 955, subsection 4.

Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE** and **TOMORROW ASSIGNED FOR SECOND READING**.

Representative PIEH from the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to Review of the State Board of Pesticides Control Under the State Government Evaluation Act"

(H.P. 1893) (L.D. 2634)

Reporting **Ought to Pass** pursuant to Maine Revised Statutes, Title 3, section 955, subsection 4.

Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE** and **TOMORROW ASSIGNED FOR SECOND READING**.

Ought to Pass Pursuant to Joint Order (H.P. 1836)

Representative BRENNAN from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Improve the Accountability of the Child Development Services System"

(H.P. 1896) (L.D. 2636)

Reporting **Ought to Pass** pursuant to Joint Order (H.P. 1836).

Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE** and **TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-532)** on Bill "An Act to Amend Certain Transportation Laws"

(S.P. 918) (L.D. 2370)

Signed:

Senators:

PARADIS of Aroostook
O'GARA of Cumberland
CASSIDY of Washington

Representatives:

FISHER of Brewer
SANBORN of Alton
CAMERON of Rumford
WHEELER of Eliot
LINDAHL of Northport
JABAR of Waterville
SAVAGE of Union
WHEELER of Bridgewater
COLLINS of Wells

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

Signed:

Representative:

BOUFFARD of Lewiston

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-532)**.

READ.

On motion of Representative SANBORN of Alton, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-532)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 21, 2000.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 997) (L.D. 2559) Bill "An Act to Amend the Charter of Hospital Administrative District No. 4" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 631) (L.D. 1796) Bill "An Act to Improve the Absentee Voting Process" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-515)**

(S.P. 901) (L.D. 2353) Resolve, Relating to the State Valuation for the Town of Milo (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-536)**

(H.P. 1728) (L.D. 2434) Bill "An Act to Improve the Lives of People with Disabilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 1867) (L.D. 2603) Resolve, Regarding Legislative Review of Chapter 25: Leashed Tracking Dog License Rules, Major Substantive Rules of the Department of Inland Fisheries and Wildlife (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(H.P. 1680) (L.D. 2346) Bill "An Act to Extend the Time Period for Municipalities to Make Recommendations Concerning Great Pond Surface Use Restrictions" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-883)**

(H.P. 1689) (L.D. 2395) Bill "An Act Concerning Disclosure Requirements Under the Used Car Information Laws" (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-880)**

(H.P. 1731) (L.D. 2437) Bill "An Act to Revise the Funding of the Ground Water Oil Clean-up Fund" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-877)**

(H.P. 1733) (L.D. 2439) Bill "An Act to Relieve all Counties from Expense and Responsibility of Transporting Clients" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-881)**

(H.P. 1735) (L.D. 2441) Bill "An Act to Provide Flexibility in the Distribution of Funds by the Department of Economic and Community Development" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-884)**

(H.P. 1738) (L.D. 2444) Bill "An Act to Clarify the Law on Ownership of Certified Public Accounting Firms and to Establish

an Approved Practice Monitoring Program" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-879)**

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

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the Second Day:

(H.P. 1699) (L.D. 2405) Bill "An Act to Increase the Number of Domestic Violence Prosecutors" (C. "A" H-876)

No objections having been noted at the end of the Second Legislative Day, the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

BILLS IN THE SECOND READING

House

Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Relating to Review of the Department of Conservation Under the State Government Evaluation Act"

(H.P. 1891) (L.D. 2629)

House As Amended

Bill "An Act to Amend the Laws Governing Municipal Tax Increment Financing to Encourage Downtown Investment"

(H.P. 1739) (L.D. 2445)

(C. "A" H-869)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

The following Joint Order: (S.P. 1046)

ORDERED, the House concurring, that when the House and Senate adjourn they do so until Tuesday, March 21, 2000 at 9 o'clock in the morning.

Came from the Senate, **READ** and **PASSED**.

READ and **PASSED** in concurrence.

ENACTORS

Emergency Measure

An Act to Make Organizational Changes in the Maine State Cultural Affairs Council

(H.P. 1640) (L.D. 2291)

(C. "A" H-825)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same

and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 305: Rules and Regulations Pertaining to Traffic Movement Permits, a Major Substantive Rule of the Department of Transportation

(H.P. 1819) (L.D. 2553)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Help Support the Medical Ride Volunteer Service

(S.P. 933) (L.D. 2383)

(C. "A" S-517)

An Act Regarding Electric Metering and Billing Competition

(H.P. 1697) (L.D. 2403)

(C. "A" H-831)

An Act to Change the Aquaculture Lease Process

(H.P. 1758) (L.D. 2464)

(C. "A" H-827)

An Act to Enhance Maine's Historic Districts by Efficiently Installing Underground Delivery Systems

(H.P. 1769) (L.D. 2482)

(C. "A" H-830)

An Act to Implement the Recommendations of the Joint Standing Committee on Natural Resources Relating to the Review of the Advisory Commission on Radioactive Waste and Decommissioning Under the State Government Evaluation Act

(H.P. 1849) (L.D. 2587)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, to Create the Commission to Study the Establishment of an Environmental Leadership Program

(S.P. 529) (L.D. 1562)

(C. "A" S-516)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

An Act to Increase Health Insurance Benefits for Retired Educators

(S.P. 607) (L.D. 1730)

(H. "A" H-794 to C. "B" S-480)

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

On motion of Representative WATERHOUSE of Bridgton, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 467

YEA - Ahearn, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Pinkham, Plowman, Povich, Powers, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - NONE.

ABSENT - Frechette, Mack, Madore, Quint, Usher, Watson.

Yes, 145; No, 0; Absent, 6; Excused, 0.

145 having voted in the affirmative and 0 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

An Act to Establish Standards and Conditions for Designation of Ecological Reserves on Lands Managed by the Bureau of Parks and Lands

(S.P. 157) (L.D. 477)

(S. "A" S-510 to C. "A" S-500)

TABLED - March 9, 2000 by Representative GOOLEY of Farmington.

PENDING - **PASSAGE TO BE ENACTED.** (Roll Call Ordered)

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative PIEH.

Representative PIEH: Mr. Speaker, Men and Women of the House. If you will recall, this is a unanimous committee report that has come before the body about ecological reserves and there were some good questions raised by the Representative from Crystal and we wanted to take a little time to make sure that we were on track with what we were saying. In terms of definition of an eco reserve in Maine, there were concerns about human habitation, buffers and things like that. Our legislation in

the State of Maine is not superimposed upon by any other legislation anywhere in the country or in the world. There are no buffers, private or public, contemplated or required in the legislation. There were questions about acreage limits. The total land designated may not exceed 15 percent of the total bureau acreage. At current, only 85,000 acres can be designated as eco reserves. In terms of operable timberland, no more than 6 percent of the operable timberland acres may be designated. There is also wording in it at the request of the Maine Forest Products Council who have not been terribly pleased with the Bureau of Public Parks and Lands and their timber harvesting activities. The Bureau of Parks and Lands must bring up the percentage of the land that they are harvesting to reflect well on the state and its timber management. The traditional uses are permitted in our eco reserves in Maine, that means hunting, fishing, hiking and camping. They will all continue and including the use of motorized recreational vehicles under reasonable conditions, which means it is not easy to go around in the traditional trails going through. I will also mention that we put in wording that states that we have nothing to do with the water. Our committee does not oversee water. It oversees public lands and anywhere where someone has boated before, they would have every right to do any kind of boating that they would be allowed under Inland Fisheries and Wildlife. They have broad based support. This was a carryover bill. We spent time last year working on it. We worked on it again, at length, this year. It has the support of the Sportsmen's Alliance of Maine, the Maine Forest Products Council, the department and the environmental community and it was, as I said before, a unanimous report from the committee. I hope that you will see fit to vote to enact this and vote green. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative GOOLEY.

Representative GOOLEY: Mr. Speaker, Men and Women of the House. I would just like to emphasize two points that the good Representative from Bremen made and one of them has to do with buffers. There are no buffers, private or public, contemplated or required in this legislation. That is very important. That was made an issue last time we talked about this. The other aspect that I would like to mention is about the total land designated may not exceed 15 percent of the total bureau acreage, which is somewhere around 570,000 acres. It can't exceed 15 percent of the total bureau acreage so that at the current levels, only 85,500 acres can be designated as eco reserves. In addition to that, LD 477 states that no more than 6 percent of the operable timberland acres may be designated. At current levels, only 22,800 acres of operable timberland can be designated as eco reserves. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative JOY.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I hope that all of you had a chance to look at the little map showing the potential for ecological reserves on the bulletin board out in the hall. This bill reminds me of either the toe in the door or the camel's nose under the tent. This is the beginning towards what is depicted on that map out there and it goes back to the 1992, Rio Conference, and I urge you to defeat the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative CARR.

Representative CARR: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.
 Representative CARR: Mr. Speaker, Men and Women of the House. It was my understanding in that there was also a limit of 100,000 acres on the amount of eco reserves. I am just inquiring if that is the same or if that has been changed?

The SPEAKER: The Representative from Lincoln, Representative Carr has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Mr. Speaker, Men and Women of the House. The answer is yes, there is a limit of the 100,000 acres. Nothing has changed from when this left committee.

The SPEAKER: A roll call having been previously ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 468

YEA - Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gillis, Glynn, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Shiah, Shields, Shorey, Sirois, Skoglund, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tripp, True, Tuttle, Twomey, Volenik, Waterhouse, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Campbell, Clark, Clough, Gerry, Goodwin, Jones, Joy, Kasprzak, MacDougall, McAlevy, McKenney, McNeil, Mendros, O'Neal, Pinkham, Plowman, Richardson E, Schneider, Sherman, Snowe-Mello, Stanley, Stedman, Tobin J, Tracy, Trahan, Treadwell, Wheeler EM, Winsor.

ABSENT - Dugay, Frechette, Mack, Madore, Usher.

Yes, 116; No, 30; Absent, 5; Excused, 0.

116 having voted in the affirmative and 30 voted in the negative, with 5 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

HOUSE DIVIDED REPORT - Majority - (8) **Ought to Pass as Amended by Committee Amendment "A" (H-853)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-854)** - Committee on **HEALTH AND HUMAN SERVICES** on Resolve, to Increase the Reimbursement Amount for Occupational and Physical Therapy Services Under the Medicaid Program

(H.P. 1655) (L.D. 2324)

TABLED - March 14, 2000 (Till Later Today) by Representative KANE of Saco.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-853)** Report.

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

Representative KANE: Mr. Speaker, Men and Women of the House. This is a simple and straightforward bill. It is a bill about lowering the barrier for needed physical and occupational therapy services for Medicaid clients. As we have learned over the past several years, when people, particularly children, are deprived of needed services when they need it, the cost of treatment later on becomes far more expensive. The bill before you today would require DHS to increase the reimbursement rate for occupational and physical therapists from 37 percent of the usual and customary charge, 37 percent is what they currently get. This would raise it only up to 50 percent of the usual and customary charge. This is a very minimal increase and there has been no increase for nine years. The fiscal note on the bill is less than \$110,000 in state general funds, which would generate nearly \$215,000 in federal funds. It would be affective January 1, 2001.

Occupational therapists, the rate of reimbursement would increase from \$40 to \$48.50. For physical therapists, the same, from \$40 to \$48.50 per hour. It is interesting to note that occupational therapists in hospital settings are currently reimbursed at \$120 per hour. We have a group of needed professionals who are currently under paid. What we are proposing is a very minimum increase. As I mentioned low Medicaid rates prove to be a substantial barrier to services for clients being served under Medicaid and these are our most vulnerable clients. Occupational therapists currently serve over 1,700 Medicaid clients. Physical therapists serve nearly 2,300 Medicaid clients. The current need is just too great to delay in favor of a study. Nine years is a long time to maintain this barrier to service. Please support the Majority Ought to Pass Report. Mr. Speaker, I request when the vote is taken, it be taken by the yeas and nays. Thank you.

Representative KANE of Saco **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. As the good Representative from Saco just noted, this bill is to require the Medicaid program to pay providers at a somewhat higher rate than they are presently receiving. I would remind this body that these are the small businesses that serve primarily children, from birth through school age. We are not talking about services provided in a hospital setting and by home health agencies. They already are paid at a rate at least double the rate paid to these small providers who are trying to make it as small businesses.

These are also the experienced providers, the experts, who have developed the expertise to deal with children with difficult problems to treat, such as autism, sensory integration, ADHD, failure to thrive, severe developmental delays, chromosome defects, cerebral palsy, mental illness in children and a variety of unique and challenging behaviors.

As was noted, the last increase was in 1991. We are presently losing providers. From fiscal year 1998 to 1999, the number of physical therapy providers decreased from 196 to 133. That is a loss of 63 small businesses providing these services. The number of occupational therapy providers

decreased from 162 to 82. That is a loss of 80 small businesses that were providing services to these kids.

As Representative Kane noted, the number of recipients also has decreased. I feel confident the number of children needing services has not decreased, but access to needed services has become more difficult or they are being served in other settings, which are twice as costly and probably do not have the specialized equipment needed to provide a full range of needed services. The increase is an increase of \$8.50 an hour. The average payment that these providers now get from the other third-party payers is an average of \$97 an hour. We are proposing an increase to \$48.50. It doesn't sound like much, but hopefully it is enough to keep more providers from going under and closing their practices as has been happening in recent years as evidence by the numbers.

I would also like to note that the hourly rate is paid only for direct treatment time. Other costs that must be absorbed in that hourly rate include downtime for snow days, no shows, travel time, meetings, conferencing, reports, billing costs, staff education, time spent dealing with billing issues when claims are not paid, which happens under the Medicaid Program. In other words, all costs associated with being a small business providing health services.

The total cost from General Fund revenues for this increase in rates is less than \$110,000, which would also generate another \$214,000 of federal matching funds. In the first year of this legislative session a Resolve was passed requiring the Department of Human Services to review reimbursement rates for these services as well as some other rehabilitation services and to report to our committee by December 31, 1999. Some meetings were held in November and December to carry out this review, which I attended. The proposal the department was submitting at that time was to increase rates to 60 percent to 70 percent of usual and customary charges. We are only asking for 50 percent in this bill.

I believe the department was meeting with us in good faith, intending to do something about a fee increase, when the Medicaid shortfall hit. Suddenly we were told there will be no increase, because of the run-away costs of prescription drugs, residential care facilities, mental health clinics and some other categories. The small providers, so essential to providing services to increase independence, function, mobility, ability to learn, etc., don't carry much weight and sometimes get treated rather badly.

We don't need more studies of reimbursement rates as proposed in the Minority Report. There is already a requirement for an annual fee review. We have the data. I guarantee we will lose more providers. We do not provide more equitable reimbursement to these providers and some others also in the rehab field.

As noted earlier, it is critical for children to receive services early in their development. The pre-school years, especially, are critical and if they do not receive the services they need, the costs to treat at a later age will be substantially higher. More and more children are covered under the Medicaid program. These therapists take clients regardless of funding source with caseloads of 60 percent to 70 percent Medicaid clients in some practices. They cannot continue to take a loss on every Medicaid service they provide.

We talk about a million dollars and a million dollars there, a revenue surplus of \$340 million, and we expect these providers to continue to provide services to some of our most hurting kids

at a loss because of the Medicaid shortfall. I can't believe that we can't find \$110,000 to fix this serious under funding of services to our children.

I urge your support of the Majority Ought to Pass Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative **LOVETT**: Mr. Speaker, Ladies and Gentlemen of the House. I want you to know that I wholeheartedly agree with the good Representative from Saco and the good Representative from Manchester. However, this subject continues to plague the Health and Human Services Committee. Last session, we heard from the chiropractors. We have heard from the psychologists. We continue to have demands about fair increases. They all need raises. The rate structure seems to differ between professions. Consequently, I cannot support this amendment. I would like to have you support ours. I would like to see us study the 25 providers that we have providing services to our children and our elderly and I would like to see us be prudent and do it all in one package instead of favoring one group against another group. I am going to ask you to join with me in defeating this measure and go with the Committee Amendment "B." Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative **MCALEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. I think it would be a good idea to study these groups, but unfortunately by the time you finish the study there won't be 25, there will be 15 or less. I have a special relationship with my physical therapist in my town. She is one of the few physical therapists around that does take Medicare. She has kept me up to speed on what is going on. What is happening in that industry has happened already to our drugstores and to our funeral homes. They are being bought out by national chains and they are putting small business people out of business. My therapist has been there for 12 years and she has built her business to be able to buy the building she is in and to expand. She meets the needs of rural people. If you check with some of these national chains, they don't take Medicare or Medicaid. This is a matter of economic development. It is also a matter of protecting our small health care providers. If she goes out of business, people will have to go to Portland. That is 52 miles round trip from our community. If we want to protect these small business people who are offering a much-needed service, we should support this. I think we should study the groups, but I think groups need to come forward individually and plead their plight. I think if they come collectively, they will have a chance of not having it happen. If you want to facilitate these national chains that are coming in to buy them out, then don't support this bill. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I was in the business for a number of years putting together signs and symptoms and trying to arrive at a diagnosis. The bill before you is simply a symptom of a disease. The disease is there is an uneven, uneven reimbursement by the Department of Human Services to the 25 providers that are on that list. Each of these providers has a normal fee called a UCR or usual customary reasonable fee. The Medicaid Department pays a part of that, but the percentage of payment for each of these people is not the same and is varied from 37 percent up to 100 percent. As time goes by, the

cost of doing business changes, but the allowed fee does not. Last year the chiropractors came to our committee and asked us for a raise, not having had one since 1986. They were down to 25 percent and we voted to do that. The next group that came were the psychologists and we did it for them. This year was the speech pathologist, the speech and hearing centers, the audiologists, the physical therapist and the occupational therapist. We realized that there was not a level playing field out there for all these providers and when you look at the list and compare all their fee schedules, you see a great variation in what percent of their normal fee is being paid. The percentage simply depends upon whose wheels squeak the most. Therefore, this is not good government. This is not that the OTs and the PTs don't deserve a reasonable fee and a raise in their reimbursement, but it became apparent to us that this is going to be an unending process, which is time consuming for the committee and for the providers. Therefore, we use this opportunity to mandate this amended version of the bill, the amendment, which I would ask you to vote against this one and pass the amended part. Ask for the amendment, which causes the study. The study says that we will look at the reimbursements, see how they affect the services and see how they can be adjusted in the future. I ask you to defeat the current motion and pass the amended version. Thank you.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative SNOWE-MELLO.

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I stand here today not to speak against increasing the reimbursement for occupational and physical therapists because I do believe that these folks are being grossly underpaid, but I stand here today opposing the Majority Report. This report fails to recognize the 25 other providers whose services are also in dire need of an increase. As a representative of the House and of the Health and Human Services Committee, I really believe strongly that it is my duty to look at the whole picture, to be fair and to be just to all the providers who are worthy of the increase. I stand here today to support the Minority Report, which calls for a study for reimbursements under the Medicaid program for all providers of health care services. I ask you this. Is it right to recognize only one group of providers and not the others? I do not think so. Do you? Please support the Minority Report because I believe this is the wise and just thing to do. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. Even though it wasn't necessarily posed in the way of a question, I would like to respond to my good friend from Poland. Yes, I do support providing the pay raise for this individual group of practitioners. This seems to me, at least, the same argument that we had before when speech therapists and audiologists came to us. Why do we piece meal? I know the Minority Report does call for a study and I, for one, will hopefully come back next time and participate in studying that if no one else puts in the bill, I will do it. That doesn't mean that we have to sacrifice the request that we have from the PT and OT organizations. Let's support this now. It is not a phenomenal amount of money. It is an opportunity for us to respond to a group of professionals who are being paid less than they should be. We have demonstrated that to the committee, i.e., the Majority Report. I think this is also one of the areas that I have been pointing to when we start talking about other

spending proposals that would use up that alleged surplus. I will be very disappointed if this body refuses to pass this bill and anybody has the inkling of spending millions on laptops. There are waiting lists. There are people who are not being served. Those are the people that we need to turn our attention to. The quality of care for our young people. This bill is important and I urge you to follow the lead of Representative Kane and pass the Majority Ought to Pass. Thank you.

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

Representative WILLIAMS: Mr. Speaker, Men and Women of the House. Briefly, I agree with my colleagues who favor the other amendment. What we are dealing with here is management by crisis. It is not the way to go. Unfortunately, which crisis outweighs the other? In this instance it is my firm belief that it is crisis of occupation therapists and physical therapists who are leaving, closing up shop because they can't afford to provide services to the people who most need it. The other crisis is when these people do need services of occupational therapists and physical therapists; they go to the emergency room requiring a great, great deal amount more of resources. While I find myself in agreement here with both concepts, I find in this instance the crisis that we are dealing with is occupational therapists and physical therapists leaving, is the one we need to address. You can do that by supporting the Majority Ought to Pass as Amended Report.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 469

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gillis, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Mailhot, Martin, Marvin, Mayo, McAlevy, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Muse, Nass, Norbert, O'Brien LL, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shorey, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Cianchette, Collins, Cross, Davis, Foster, Gerry, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Labrecque, Lovett, MacDougall, Madore, McKenney, Murphy T, Nutting, O'Brien JA, Pinkham, Plowman, Rosen, Schneider, Shields, Snowe-Mello, Stedman, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Belanger, Daigle, Duncan, Frechette, Kneeland, Mack, Matthews, O'Neal, Tripp, True, Usher, Wheeler EM.

Yes, 100; No, 39; Absent, 12; Excused, 0.

100 having voted in the affirmative and 39 voted in the negative, with 12 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-853) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Tuesday, March 21, 2000.

Bill "An Act to Promote Stability in Labor Management Relations in the Public Sector"

(H.P. 960) (L.D. 1358)

- In House, Report "A" (6) **OUGHT TO PASS AS AMENDED** of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-433)** on February 22, 2000.

- In Senate, Report "B" (6) **OUGHT NOT TO PASS** of the Committee on **LABOR READ** and **ACCEPTED** in **NON-CONCURRENCE**.

TABLED - March 15, 2000 (Till Later Today) by Representative JOY of Crystal.

PENDING - Motion of Representative HATCH of Skowhegan to **ADHERE**.

Representative JOY of Crystal moved that the House **RECEDE AND CONCUR**.

Representative HATCH of Skowhegan **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 470

YEA - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Carr, Cianchette, Clough, Collins, Cross, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Madore, Marvin, McKenney, McNeil, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Plowman, Richardson E, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

NAY - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mendros, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Campbell, Daigle, Fisher, Frechette, Jacobs, Lemont, Mack, Matthews, Usher.

Yes, 61; No, 81; Absent, 9; Excused, 0.

61 having voted in the affirmative and 81 voted in the negative, with 9 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **ADHERE**.

HOUSE DIVIDED REPORT - Majority (10) Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "A" (H-872) - Committee on JUDICIARY on Bill "An Act Requiring Compensation for Loss of Property Value Due to State or Local Regulation"

(H.P. 354) (L.D. 470)

TABLED - March 15, 2000 (Till Later Today) by Representative THOMPSON of Naples.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

Representative PLOWMAN of Hampden **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise this afternoon to speak in opposition to the pending motion and ask that the House move on to accept the Minority Ought to Pass Report. This bill, very simply, is a bill that requires the state and the political subdivisions of the state, the towns and the cities, to pay property owners when state or local regulations lower the owner's property value by more than 50 percent. We have an epidemic of takings in this state and in my city of the district that I represent. I would like to provide with you some reasons why we need property rights protection in Maine. For the greater good, government has the power to take property away from homeowners, families and businesses for governmental use, even if this property is not for sale, even if this action is against the wishes of the landowner in order to protect the rights of the individual. Here in Maine we have set up laws regarding eminent domain and eminent domain procedures, which require that the taking of land, when you take somebody's land, that they must be compensated by a fair market value. This is the Maine citizens only recourse and only ability to be made whole if their land or home is taken away and provides for them the ability to relocate and hopefully reestablish somewhere else nearby and enjoying the same quality of life that they once had prior to the governmental actions. Creating a financial cost for these governmental actions also creates the awareness by officials of the financial damage caused to the individual. Likewise, governmental officials need to prioritize the cost, the viability and the other alternatives to going in and shaking up somebody's lives.

The definition of zoning and land use regulations for the greater good in recent times has changed. Once it was used for a separation of major uses, local zoning and state land use regulations have been used to eliminate current uses and devalue property. I have a couple of examples in my district of these takings that I would like to bring forward for your consideration as were brought forward to the committee. The first example deals with a local city councilor in my city, Bob Fickett. Bob Fickett is a lifetime resident of South Portland. His family has owned and operated a farm since the 1880s in South Portland. It was originally founded by his great great grandfather. Up until the 1930s, South Portland didn't have any zoning regulations at all and in the '40s regulations began to affect his farm. During the 1970s through zoning actions of our local municipality, they made farming in South Portland illegal and put him and the other operations out of business. They have not been able to get permits. I have asked that a handout be sent out to the members of the House. In that handout is a letter from the building inspector in 1982 when one of the farmers whose next door neighbor, Ted Weinright, who owns a 200 acre potato farm tried to get a permit to put up a barn. He couldn't

even put a barn on his 200 acres of land because farming was no longer welcome. In fact, what it said was, "further non-conforming buildings may not be extended or enlarged for the purposes not permitted in the zoning district. This property is located in an "A" residential zoning district and farming operation is legally conforming and may continue. However, uses of these other buildings no longer can because farming is illegal."

I also have a constituent who had a farm in which he had a number of horses. He actually had the code enforcement officer in the community come down and tell them that after having horses since the 1880s, that they were no longer able to have horses on their property. Again, through government regulation current uses of property, uses that have been enjoyed for lifetimes have been taken away and leave the families no ability to use their property.

I, myself, in my family, was actually hit by the same type of regulations. In South Portland I lived in the city, a very urban part of the city in the cash corner neighborhood. The cash corner neighborhood in South Portland is very much a middle class blue-collar neighborhood. To give you a little bit of history, in the late 1880s the land was used predominately for homes and for farming, but following the introduction of zoning, the land was zoned as a mixed use district that would allow both businesses and homes to be present. Approximately 300 families live in my neighborhood and many of us go back several generations. During the 1960s and the 1970s, some large businesses located into the area and many residents who worked at their businesses located in cash corner did so that they would be close by to work. During the 1980s, several businesses wanted to expand, however, the majority of the land was built on and occupied by homes and that is when the problems began. The area of cash corner my family lives in was the first rural houses next to the expanding warehouses. One of the businesses approached the owners of the 12 homes seeking an opportunity to purchase the homes and make way for the expanding businesses. As they went from house to house, they found that people who lived there did not want to move and that there homes were not for sale, absolutely not for sale. Dissatisfied with the answers, the businesses went to the local town leaders and informed them if the land were not made available that they would need to relocate their businesses and take the jobs out of the community. In response to these pressures the city council in South Portland rezoned the mixed-use zone to a heavy industrial, non-residential home nullifying our occupancy permits to our homes. The purpose of the zone change was to limit residential allowances in this area and that is what it did. It wiped us out. Many of the homeowners in the neighborhood had extra house lots, which were approved in the original subdivision and were never built upon. They were told by the City of South Portland that our right to build on our land and on our house lots were terminated. Additionally, we were told by the city that if our homes were to burn down, I have attached a newspaper article from that time for your review, that we would be denied the right to rebuild our homes. We were told that we would no longer be eligible for building permits to construct garages or sheds. This was one of the original neighborhoods in our city and is mostly made up of homeowners that are retired and on fixed incomes. Panic set into our neighbor. I want you to understand the actual ramifications of how these affect personal lives, these property rights decisions. A pair of realtors went down into our neighbor and through our neighborhood a week after the rezoning offering homeowners 40

cents on a dollar to the homeowners to purchase their property. These realtors told my parents and my neighbors and myself that we should take what we could get and leave now and make way for the anticipated expansion before it comes or we will get nothing. We were told that we had the situation and we were absolutely in a no win scenario. If the family stayed, they were left vulnerable by zoning restrictions, which took away our rights to expand, renovate and use our homes. If we left, our property was so devalued through governmental actions that our family would have had to start over somewhere else without full realization of our only major asset, our family home.

One of our neighbors had to sell their home on the market at this part of the sale prior to the rezoning. She was a senior citizen who had just placed her husband in a nursing home and was looking to relocate into a lower maintenance apartment or condo. Her home was on the market for \$85,000. Following this rezoning, financially and physically unable to remain in her home, she was forced to sell to her best offer, \$40,000. These are the types of people that are affected through these regulations. They have faces. They are wiped out. They have no ability to act. It seems only just and it seems only right that if a government, any government, makes a decision for the greater good of the people the political subdivision that they in turn need to step up to the plate and provide and protect the rights of the minority, the people that they are forcing out.

The purpose of this bill is simply to put things in step with the eminent domain procedures of this state, which require when you take somebody's property through governmental action, you pay them for it. It seems reasonable to me that no government, no true representative government of the people would allow the people of their political subdivision, the people that they represent, to not be made whole after an action. However, it happens and it happened in South Portland and it continues to happen in South Portland. I see it in other places in the State of Maine. It is my hope that we can defeat this motion and look at making these people whole and hopefully allow them the ability to pick up their lives when the government steps in and takes their rights. Thank you.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Mr. Speaker, Men and Women of the House. I hope you will follow the 10 to 3 majority of the Judiciary Committee and defeat this legislation. This is a bill that is a mandate upon our cities and towns to defend themselves and pay out damages from what will inevitably be hundreds of potential lawsuits, whether they have validity or not. It is retroactive. It includes any ordinance that has been passed, any state law that has been passed, that may have reduced someone's property value, even if the purpose of that ordinance was one which, for example, this Legislature found to be an overriding consideration. What we are saying is, let's give the lawyers something new to do. Believe me, this will open a floodgate of lawsuits, which will affect the way your towns are able to do business. It is not a good idea. It is unfortunate that I hear of some regulations passed by South Portland that apparently have affected people, but those are ordinances in the City of Portland and there are political redresses to the enactment of such ordinances. You enact your elected representatives to the City of South Portland and you have them vote differently. We are being asked to overrule the City of South Portland and other cities and towns and tell them what they do doesn't matter, what they do on a local level doesn't

matter, we are going to make them pay damages to people. I suggest the remedy for local problems is in the local area. I would ask that you would support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. This bill is very similar to the one that I put in a couple of years ago. I recall very clearly one of the comments that was made in the testimony in opposition to this bill. If we were required to pay for the value that we have taken on this property in laws passed in this Legislature, we could not begin to come up with enough money. Ladies and gentlemen, when people buy property to go along with the premises set forth by our founding fathers, they did not plan to have that property taken away from them or laws passed which are going to devalue that property. While I am the first one to agree that a local community should take care of its own problems by ordinances, I would not be speaking if this were just restricted to local communities. Ladies and gentlemen, this is a statewide problem and day after day after day here in this body we pass legislation that devalues individuals property.

In the county of Piscataquis, 13 percent of that county is state owned, which automatically takes away the tax money for the unorganized territories and increases their burden. The valuation of the unorganized territories exceeds the valuation of the organized territories partly because of the taking that have gone on in that county. When I talked to the Bureau of Taxation and asked them why that occurred, they said because of the shore land property. Shore land property comes under shore land zoning, which greatly reduces the value of that property. I asked them if they took that into consideration when they levied the tax bills. They said, absolutely not. We disregard that. Ladies and gentlemen, this is just exactly what is happening all across this state. Legislation is being passed that is taking away the value of individual property owner's land. There is a bill that I believe has already passed this body and I think it has also passed the other body, which has a rather innocuous title that says about renaming an agency within the government and then it says, changing certain portions of legislation and it sets up so-called natural areas. That brings into play all sorts of endangered plants. Anytime there is an endangered species located on anybody's property, watch out, because the bottom drops out under the value of that property. This is what Washington County and the rest of us that are in the watersheds of those five, six or seven rivers that are right on the verge of being listed face. Legislation in this case is going to be rulemaking by a federal agency that is going to take away the value of that land.

Ladies and gentlemen, the time has long been past due when we should continue to take away and devalue people's land by legislation and not reimburse them for it. I urge you to defeat the pending motion and go on to pass the Ought to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative SAVAGE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative SAVAGE: Mr. Speaker, Men and Women of the House. Would this bill also require that if a town eases up on its zoning regulation and that easing up impacts the property value of abutting landowners, would it require reimbursement as

well? In other words, is the easing up of regulation also covered by this bill?

The SPEAKER: The Representative from Buxton, Representative Savage has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. Yes, indeed, because it would increase the taxable value. The taxes on that property would be increased and they would be, in turn, kicking back to the town. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 471

YEA - Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bumps, Chizmar, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, Nass, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Perry, Pieh, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clark, Clough, Collins, Cross, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Madore, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Muse, O'Brien JA, O'Neal, Pinkham, Plowman, Povich, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Wheeler EM, Winsor.

ABSENT - Frechette, Jacobs, Mack, Norbert, Usher, Weston.

Yes, 76; No, 69; Absent, 6; Excused, 0.

76 having voted in the affirmative and 69 voted in the negative, with 6 being absent, and accordingly the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-871) - Minority (4) Ought Not to Pass - Committee on JUDICIARY on Bill "An Act Regarding Wrongful Death Actions"

(H.P. 480) (L.D. 687)

TABLED - March 15, 2000 (Till Later Today) by Representative THOMPSON of Naples.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. Before we vote, I would like to explain a little bit about wrongful death to you. Wrongful death statutes have existed as a creature of the Maine Legislature created in 1891. In 1891, we established a claim for medical and funeral expenses. That was one type of claim. The second type of

claim that we created is a claim for pecuniary loss, including loss of earnings. There is no limit in the category number two. The third type of claim, which we created in 1965, is a claim for \$5,000 for parents who lost a minor child. In 1977, the Legislature extended the claim to any heir of the person who died with a limit of \$10,000. We went back to the statute in 1981 and increased the limit to \$50,000. In 1989, the Legislature increased the limit again to \$75,000 and added the element of emotional distress as part of this third way of claiming damages in a wrongful death action. In 1991, the Legislature created a fourth claim for wrongful death actions, which was for a claim for up to \$75,000 for a punitive damages claim. We have created four ways to recover damages in a wrongful death action. Finally, in 1994 we doubled the \$75,000 recoverable in category number three to \$150,000. We are back again five years later to address the \$150,000 that we just addressed in 1995.

This unanimous committee report five years ago received support from all the parties as a way to address the issues brought out at the public hearing. The changes as sought by the bill before you today seeks to completely remove the cap on damages, which may be sought in a claim for loss of comfort, society and companionship. This claim is the third type as I mentioned in the four types of claims. You will hear that states such as Alabama, Arizona, Arkansas, Connecticut, Delaware, etc., have no caps on recovery. Please note that each state has addressed wrongful death in its own way. For example, Alabama has no cap on the award to a spouse or a child. However, if there is no spouse or a child, the amount is limited to \$10,000. Maine has no such provision. States such as New Hampshire not only set a limit, but if the actions of the person who died or a spouse of a person who died contributed in any way to the loss, the award shall be diminished by the judge.

Florida limits damages to relatives. A child born out of wedlock to a mother can be recognized as an heir, but a child born out of wedlock to a father cannot recover unless the father has recognized responsibility for child support. Tough luck to a child who is not yet receiving child support. Indiana makes no provision for loss of comfort, society and companionship. Rhode Island goes so far as to deduct from category two, which is loss of earnings, the estimated personal expenses that the person who died would have incurred for himself should he have lived out his life expectancy. Example, the attorney for the person who died showed that he would have earned a million dollars over the next 20 years. It would have cost him \$500,000 to support him in the way he was accustomed to living. The amount is reduced by \$500,000 as the award.

Some states like Maine recognize punitive damages and some don't. Each State Legislature has come up with a formula recognizing wrongful death. The blanket statement that you will hear is many states don't have a cap. They don't take into account the unique variations from state to state. Maine's Legislatures have responded in a compassionate and fair way to address wrongful death for over 100 years. We have created the unique combination that recognizes four actions for recovery. We have just recently doubled the damages that this bill seeks to amend. Losing a loved one is never fair and never compensable. You can't buy out heartache. Maine's Legislatures have continued to show compassion and recognition for the loss of a loved one. The claim for loss of comfort, society and companionship has always been claimed to provide a recognition of a loss, not a recognition of a worth. I

ask you to please reject this Ought to Pass and go on to vote no. Thank you.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Schneider.

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. I urge you to vote for the Majority Report. As the Representative from Hampden has told you, this bill removes the cap on non-economic damages for wrongful deaths. These are deaths that are caused negligently, knowingly or intentionally. They range all the way from a death caused by a drunk driver to a murder.

The kinds of damages that are available to the survivors of family members who are killed in this way are three. There are economic damages. These are the damages that are designed to pay funeral expenses, medical expenses and attempt to represent potential earnings. There are non-economic damages, which are the kind that we are dealing with today. These are the damages designed to compensate or to somehow begin to compensate the family members of the person who has been wrongfully killed. There are punitive damages. Those are designed to punish, especially egregious wrongdoers who have killed someone. We are dealing only with the non-economic portion of the damages today. There are a number of reasons to pass this bill. Primary among them is it will seriously enhance provision of justice to the people of Maine.

This bill will get the government out of the business of setting a cap that protects wrongdoers at the expense of survivors of victims. Our cap, as it is established right now, protects the person who has wrongfully killed somebody at the expense of the survivors of the person who was killed. Instead, this bill would put the decision with the jury where it really belongs. The jury is the body that has the facts of the individual case before them. We, as a Legislature, do not. We can only deal in generalities. We can set rules, but the rules will not take into account the individual facts of the case. The jury is the organ that can really do that.

As an attorney, I have done a bunch of jury trials. I have done dozens of jury trials and I have found universally that the juries of Maine possess a certain wisdom. They really do possess a collective wisdom and an understanding of the facts and the laws that are given to them as a judge. They are really serious and they are committed to doing justice. They take their job very seriously and they do a good job at it.

Another reason to pass this bill is it will bring Maine into line with the rest of the country. I will address that a little later. You will hear several arguments against this bill. The first argument that I have heard is that insurance rates will go up. There is no evidence to support this. There were several insurance agency representatives in the public hearing and each of whom testified and each of whom was asked directly if this bill passes, will it increase insurance rates? Each one of them said that they could not say it would increase your insurance rates. Another argument you may hear against this bill is that this cause of action was created by the Legislature. I think that is purely ridiculous. All you have to do is lose a loved one to know that the loss is a real one and the loss was not one that was created by the Legislature. The third argument that you may hear against this bill is that it is a lawyer's bill, especially when said with a sneer, is the ultimate argument against a bill like this. It impugns both the motives of the person introducing it and it is an argument against the bill and it is an unjust argument.

I have taken a look at where other states stand on this issue. Maine's cap is the lowest in the nation along with New Hampshire. Even New Hampshire, however, allows higher awards in some cases. About 80 percent of the states have no general cap on non-economic damages and only cap non-economic damages in medical malpractice cases and about 50 percent of the states have no cap on non-economic damages at all, which is what this bill is attempting to do. If you want to reduce government interference in this area and you want to get government out of the business of protecting wrongdoers at the expense of victims, if you trust the Maine citizens who sit on juries, if you don't believe that life in Maine is worth less than anywhere else in the country, I would urge you to vote for the Majority Ought to Pass Report.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative **MACDOUGALL**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. If this cap is removed, what would happen if a homeowner or a small business owner was faced with a verdict that is more than the limits of the insurance they carry, to anyone who can answer.

The SPEAKER: The Representative from North Berwick, Representative MacDougall has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. In response to the question, it would be the same as any other court judgment. You are required to pay the judgment to the extent of your ability to pay. This doesn't change anything about liability or collection of judgments.

I would like with the sponsor, Representative Schneider, in asking you to support this bill. We heard testimony and received written testimony from members of the Parents of Tired Truckers who came in support of this bill. Those individuals will not benefit from this change because their issues of suing someone for the loss of their children are long gone. Their testimony was particularly important to me in that these are people that don't stand to gain from the passage of this bill, but care enough about this issue to come forward to the Legislature to tell us how important it is to them to eliminate this artificial cap.

You received a handout from Parents Against Tired Truckers, which indicates how much is a life worth. Can you pick an amount? That is really what the Legislature does when they set a cap. They say that in the worst possible case that you can possibly imagine in losing a loved one, we are saying that it can't be worth anymore than that. Think about that. The worst possible instance that you can imagine of losing your child or spouse that the non-economic damages, the pain and suffering to you, is capped at \$150,000. I urge you to support this bill. Thank you.

Representative McKENNEY of Cumberland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. A young mom of 25 and her two young daughters on her way to a dance lesson some years ago were headed north on a state road when a tractor trailer pulled onto the same road and headed in the opposite direction. The tractor portion of the truck appeared to be approaching from the opposite direction. However, the trailer portion of that vehicle was cut across the roadway. Without reflectors and without reflecting tap, the young mother from Richmond drove straight into that trailer and died, but not before her daughters witnessed that death. The punitive damages in that case were capped. The father came up and talked about the horror of the death and the fact that the two young children still cried for their mom. The fact that the trailer and the company that drove this truck were in violation of OSHA and in violation of the rules for reflectors; there was just \$75,000 in punitive to be assessed against that company. When asked, how much is a life worth? Answer it this way, the political arena of the Legislature is no place to decide that question, rather, tell Maine people and the insurance lobby that we place our faith in the wisdom of our citizens to determine the value and worth of a human life for the parents, the spouse and children who remain behind and never forget. Today, ladies and gentlemen, we have in our audience a woman from my district who sits here hoping that you will do the right thing. She lost her son. There is no way these caps will ever make up the difference economically or personally or emotionally for the harm caused by that person. The only thing that you can do is to make sure that it is a deterrent so that it doesn't happen again. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. This particular legislation holds a little bit of interest for me because I have actually been thinking about working in terms of going the opposite direction for some time in terms of looking at how to address our spiraling medical costs in terms of perhaps placing a stringent cap on non-economic damages for malpractice as a way to do that to reduce the amount of coverage that a doctor would have to carry in the event of a malpractice because when they have to pay enormous fees for malpractice insurance, then that fee has to get passed on to the consumer and thus medical costs continue to rise.

I found it very interesting, my good friend from Durham's remarks about juries. Recently I had the opportunity to serve on a jury. There is a long running joke about how there are two things that you don't want to ever see made and that is sausages and laws. I will tell you that is nothing compared to watching a verdict come out of a jury room. In one case I voted to acquit the individual over and over and over again until I could get my colleagues on the jury to sit down and actually give me a reason to convict the person for something other than being a mean-spirited person, which is not a crime in this state. Not that I don't have faith in the jury system, because it was a good experience, I would say that. I am not sure that the argument that we are putting forth, that you cannot put a monetary value on a human life, holds anymore water if you say you are going to cap that value at \$150,000, than it does to say we are going to remove the cap and then value that life at a million dollars. It is a logical fallacy. It doesn't make any sense. We, as a state, cannot say that a life is only worth \$150,000, but it is worth \$1 million, \$2 million or \$20 million. You are still putting a monetary value on something that cannot be replaced no matter what a judgment is.

I think the whole purpose of a monetary award in a wrongful death action is to extend the message of punishment. I don't think you need to do that by putting Maine in the newspapers across the country that someone got an award for \$150 million for stubbing their toe at an Irving Station. These kinds of things are happening around the country. I don't think it is prudent public policy. I don't think I will be supporting this motion.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I thank the Representative from Old Town for really putting it in a nutshell for me. He is 100 percent correct on all his points. To the good Representative from Durham, this cause of action was created by the Legislature. It wasn't created by judges. It wasn't created by juries. The Legislature shouldn't cut and run from its responsibilities of continued control over this issue. We heard earlier that the insurance companies couldn't come up with any figures that would increase the cost of insurance. I don't know how many times I have heard that on the floor of the House on the three terms I have served up here. You can be talking about health care mandates and providers, but lo and behold, when we looked at that issue we found that, yes, a little bit at a time they would add up and we would have a serious problem in the health care industry. In fact, I think we are going to be setting up a blue ribbon commission; I hope we are, to take a look at that issue. Even assuming the insurance lobby can't put a dollar figure on any increase in premiums, they will be increased because the insurance companies are not going to swallow this extra cost out of the goodness of their heart. That is not to demean them. They are in a business. They have to pass on those costs somehow.

There is nothing more emotional than somebody who has lost somebody they have loved. Anybody who has been through that experience knows that. I lost a number of people in my family through tragic death. There wasn't a lawsuit involved, it was just a tragic death. It is a sense of injustice when somebody causes that death of somebody in your family. That is why we have economic awards and that is why we have punitive awards. I don't think there is anybody in this House that would stand up for more punitive measures than myself. Was there a bill before us to raise the cap on punitive damage? No. If you really wanted to punish somebody, that would be the message we would want to send. I would take a serious look at that. Let's punish them for doing this outrageous horrible thing to someone we love. Also, in those cases where you do lose someone you love, through the cause or action of somebody else, there is tremendous emotion involved in there and everybody knows that. I have deep sympathy for the people who go through that.

I have a gentleman at the bottom of my street. He is a good friend of mine. I have worked for him for many years. He lost his son in a truck accident. Only emotions, as far as I am concerned, we are given for the removal of the cap. There was not a showing that the current is the problem. The case was made; let's give it to the jury. There were no outrageous jury awards because nobody has gone beyond the cap. A judge hasn't had to step in and say it is beyond the cap so let's not do that. Is it a potential? It sure is. This bill is anything but a modest change. How many times does all of us who have been up here a little while, even the new people up here for the first term, heard the debate and listened to the emotion. Emotion is a very, very powerful thing up here. I dare say that most of the people up here, especially the people who have been here with

me since I came in the 117th and I don't know anybody who doesn't have sympathy and emotion for people, especially people who lose a loved one through an action of somebody else. Let's not let the emotion take hold of us. Let's have somebody come before us in the 120th and say, oh, by the way Legislature, we have a serious problem with our law. We want stiffer punitive damages for these people who do these horrible things through neglect or whatever. Let's take a look at that and let's punish them. I heard that you cannot put a price on a life. Absolutely. I talked to several people after the hearing before my committee and said that if I lost somebody in my family through a tragic accident because somebody else was at fault, I would not be looking for money for comfort. I would possibly be looking for money to replace the economic impact it had on my life. I certainly would look for punitive damage. I would want to punish that person through punitive action. This is bad public policy and I hope you will join with me in voting against this present motion. Thank you.

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Listening to this debate brings back some of the memories that I had while I was working for the insurance industry and often times when I would walk into a family the person would ask me how much insurance should I have? In other words, how much is my life worth? My response, very briefly, would be, you tell me when you are going to die and I will be able to tell you how much insurance you should have. Having a cap is the wrong thing to do, because no one knows when or for how long that person is going to be dead.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. People did come forward to tell us there was a problem. People that settled their cases because the insurance company said that was all they could get. We will gladly give you that because we know the case is worth at least that. Here is your money. You are done. It is as simple as that. There is a problem out there. People have cases. Each case is different. The facts of the case, the actions of the person who is negligent, the type of situation, whether there were other contributory issues, all of the things that are looked at by a jury. We awarded the parents of Wrendy Haynes more money than they would get if they were allowed to sue. We overrode the cap because we looked at the facts of that case and said that they deserved much more than that. We are saying to every other family of every other victim in the State of Maine that you are not going to get that. Let's talk about what is fair and what is logical. Is that logical? We are talking about flesh and bones, people whose kids and parents and spouses are taken away from them. We are setting the value by having a cap. It is not reasonable. I don't care who created the cause of action. It is right to have the ability to sue for wrongful death, isn't it? We are not debating that it is not a good thing to happen, the Legislature should change their mind and say, nope, you can't get any money if someone takes the life of your loved one. The issue then becomes, is it reasonable to have a cap. That is the only issue. I suggest to you that it is not reasonable. It is artificial and we should do justice by those people who are the victims and allow them to recover what they are entitled to recover. I hope you will support the Majority Ought to Pass as Amended Report.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. The debate today has been very eloquent on both sides, but we do set artificial limits in the State of Maine. The State of Maine itself protects itself at a \$400,000 level. The fact that the State of Maine paid something different in the two cases just mentioned was because it was a special and private act that came before this Legislature. Every other person who suffers a wrong at the hand of the State of Maine is limited to a recovery of \$400,000 total, economic, non-economic, and punitive or whatever you want to call it. We set it as public policy. Why? To protect the taxpayers of the State of Maine from having to pay a higher loss. Why? Because the taxpayers have to pay the bill. It is public policy. It has been set. It has been changed since most of you have been here from \$300,000 to \$400,000. The bill before us, you have heard of horrible cases that have happened, if you were going to address the horrible things that happened, you should address punitive damages and take the cap of punitive damages. Let me tell you about punitive damages. They are not covered by insurance. What is the use of going after \$3 million in punitive damages if there are no assets to go for? There is no need to increase punitive damages, is there? How many people have that much money in their pocket or \$150,000 or \$200,000? Very few people would be able to pay a punitive judgment like that out of their own pockets. There have been no efforts to increase punitive damages. The increase has been to where the money can come from, the insurance company, which, by the way, is what you and I pay for our premiums. We have, in the past, set public policy to limit what we, the people of the State of Maine, will be subjected to. It was asked earlier what happens if the claim awarded goes above the damages as given by a jury. It comes out of your pocket. It comes out of your home. It comes out of your savings. It comes out of your income every week. Okay. There is no limit as to what the judge can order you to have to liquidate in order to pay that. There is a very famous case which we saw, where even a trophy was sold at auction to pay for a wrongful death action. In a different matter, we heard that the State of Maine currently "enjoys" about the 40th lowest auto premiums in the United States. Maybe I am wrong. Maybe we are 45th. Ask anybody around if they think their auto policy is too low? They don't know what other states are paying. You will have to start covering yourself for a higher amount and you will have to start paying for higher judgments. That is okay for you to decide here, but if you want to go for the people who are egregious, who don't follow the laws and violate OSHA and violate the trucking laws and to drive drunk, go for punitive damages. That is called punishment. That is what it is called, punitive damages. We just created it just a little while ago. We have four ways to recover in this state, not three as you heard. I really think you should think this through. Is the barrier artificial? Yes. Is there a reason for it? Yes. It is a recognition of a loss.

Now you know what we will have? We will have a whose kid is worth more? Three children killed in the same accident and three different verdicts with three different amounts awarded. How will we base that? An honor student versus a kid who was often suspended, a kid who gave his parents trouble versus the kid who was in key club. I don't know. How are you going to explain to three parents sitting there that there were three different verdicts? You are going to start having a little competition sort of like the people at the backyard fence, my kid

is taller than your kid and has a bigger shoe size and is probably going to play basketball. Right now it is a recognition. It is not meant to be a way to say what it was worth. It is meant to say you did a horrible thing. If it is really horrible go for the punitive damages. I would support that bill 100 percent, but that is not what is here today. Here today is a bigger bite at the already created apple. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 472

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Chick, Chizmar, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Jabar, Kane, LaVerdiere, Lemoine, Lindahl, Marvin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Thompson, Tobin D, Townsend, Tracy, Tripp, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Cross, Davis, Duncan, Dunlap, Foster, Gerry, Gillis, Glynn, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lemont, Lovett, MacDougall, Mailhot, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Pinkham, Plowman, Richardson E, Rosen, Savage C, Sherman, Shields, Shorey, Snowe-Mello, Stedman, Tessier, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bryant, Clark, Frechette, Goodwin, Jacobs, Labrecque, Mack, Madore, Martin, Usher.

Yes, 80; No, 61; Absent, 10; Excused, 0.

80 having voted in the affirmative and 61 voted in the negative, with 10 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-871)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 21, 2000.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Davis who wishes to address the House on the record.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I wish to be recorded as inadvertently pushing the wrong button on LD 1358. I wish to be recorded as voting red and I voted green. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson who wishes to address the House on the record.

Representative **WATSON**: Mr. Speaker, Men and Women of the House. Had I been present for the vote on LD 1730, I would have voted yea. Thank you.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Matthews who wishes to address the House on the record.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. If I had been present and voting yesterday on LD 2418, Ought to Pass as Amended, I would have voted in favor. Thank you Mr. Speaker.

On motion of Representative GOOLEY of Farmington, Representative LaVERDIERE of Wilton and Representative DAVIS of Falmouth, the House adjourned at 1:10 p.m., until 9:00 a.m., Tuesday, March 21, 2000 pursuant to the Joint Order (S.P. 1046) and in honor and lasting tribute to Brent R. Churchill, of Industry and Richard E. Dobson, of Falmouth.