

Bill as
Introduced

HCR 17 - AS INTRODUCED

2011 SESSION

11-0397

09/04

HOUSE CONCURRENT RESOLUTION *17*

A RESOLUTION declaring that Copp versus Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force.

SPONSORS: Rep. Itse, Rock 9

COMMITTEE: Judiciary

ANALYSIS

This house concurrent resolution declares that Copp versus Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

A RESOLUTION declaring that Copp versus Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force.

1 Whereas, the Constitution of New Hampshire, Article 20 1875 states, "In all controversies
2 concerning property, and in all suits between two or more persons except in cases in which it has
3 been heretofore otherwise used and practiced the parties have a right to a trial by jury and this
4 method of procedure shall be held sacred, unless, in cases arising on the high seas and in cases
5 relating to mariners' wages, the legislature shall think it necessary hereafter to alter it;" and

6 Whereas, it was commonly understood that the citizens of New Hampshire were entitled to trial
7 by jury in civil cases unless there was another practice at the time the Constitution was ratified until
8 the opinion of the Judiciary known as Copp versus Henniker (55 N.H. 179); and

9 Whereas, the opinion of the Superior Court of Judicature of New Hampshire in Copp versus
10 Henniker recognized that in East Kingston versus Towle (1868, 48 N.H. 57) that the citizens of the
11 State of New Hampshire have a right to trial by jury unless there was another practice at the time
12 the Constitution was ratified; and

13 Whereas, the opinion of the Superior Court of Judicature of New Hampshire in Copp versus
14 Henniker found by precedence in Meade versus Walker (1863, 17 Wis. 189) affirmed in Eastman
15 versus Clarke (1872, 53 N.H. 276) that the citizens of the State of New Hampshire only have a right
16 to trial by jury if that was the case when the Constitution was ratified; and

17 Whereas, Meade versus Walker (1863, 17 Wis. 189) was adjudicated under the Constitution of
18 the State of Wisconsin; and

19 Whereas, the citizens of the State of New Hampshire are subject only to laws pursuant to the
20 Constitution of the State of New Hampshire and the Constitution for the United States of America;
21 and

22 Whereas, the case Eastman versus Clarke (1872, 53 N.H. 276) dealt only with the fraction of
23 profits or loss that must be shared for a person to qualify as partner and did not deal with the right
24 to trial by jury in any manner; now, therefore, be it

25 Resolved by the House of Representatives, the Senate concurring:

26 That, the General Court of New Hampshire finds that the opinion of the Superior Court of
27 Judicature of New Hampshire known as Copp versus Henniker is repugnant to the Constitution of
28 New Hampshire; and

29 That, the opinions which subsequently rely upon Copp versus Henniker to deny the right to trial
30 by jury in new types of civil cases are utterly void and of no force.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HCR 17

BILL TITLE: declaring that Copp v. Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force.

DATE: February 22, 2011

LOB ROOM: 208 **Time Public Hearing Called to Order:** 3:13 pm

Time Adjourned: 3:43 pm

(please circle if present)

Committee Members: Reps. Rowe, Sorg, Souza, Hagan, Silva, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Tregenza, Wheaton, Wall, Potter, Weber and Watrous.

Bill Sponsors: Rep. Itse, Rock 9

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

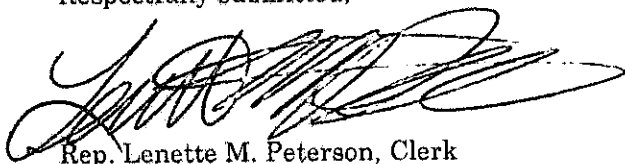
*Rep. Itse, sponsor, introduced the bill.

Why does this matter to us now? Relevance? Right to jury trial was defeated. Judicial decision that vehicle cases don't deserve jury trial. "Copp vs. Henniker" trial by jury is civil case and it's sacred. Trial by jury if there was another case. New Hampshire trial by jury was the case. Flip of one word ... look at facts "you have the right to trial by jury."

Chuck Douglas, representing self - opposes

Expanding trial by jury must be by Constitutional Amendment, not House Concurrent Resolution (HCR).

Respectfully submitted,



Rep. Lenette M. Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HCR 17

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Bill Sponsors: Rep. Itse, Rock 9

TESTIMONY

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*Rep. Itse - why does this matter to us now? Rella vince)
right to jury trial, was defeated; Judicial decision
that vehicle cases don't deserve jury trial. "Copp vs Henniker"
Trial by jury is Civil Cases + its sacred.
Trial by jury if there was another case.
NH - Trial by jury was the case. Flip of one word
look at facts "you have the right to trial by jury"
Chuck Davis (0) - expand Trial by jury must be by Const. Amend.
(Douglas) not HCR

Respectfully Submitted,



Rep. Lenette M. Peterson

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HCR 17

BILL TITLE: declaring that Copp v. Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force.

DATE: March 1, 2011

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL Interim Study (Please circle one.)

Moved by Rep. Weber

Seconded by Rep. Palmer

Vote: 15-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

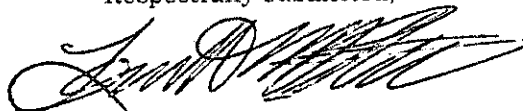
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE YES NO

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep. Lenette Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HCR 17

BILL TITLE: declaring that Copp v. Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force.

DATE:

LOB ROOM: 208

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL Interim Study (Please circle one.)

Moved by Rep. *Weber*

Seconded by Rep. *Palmer*

Vote: *150* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: *Yes*

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

[Signature]
Rep. Lenette Peterson, Clerk

JUDICIARY

Bill #: HCR 17 Title: _____

PH Date: 2/22/11

Exec Session Date: 3/1/11

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
Rowe, Robert H, Chairman		
Sorg, Gregory M, V Chairman	✓	
Souza, Kathleen F		
Hagan, Joseph M	✓	
Silva, Peter L	✓	
Andolina, Donald C	✓	
Giuda, J. Brandon	✓	
LaCasse, Paul D	✓	
McClarren, Donald B	✓	
Murphy, Brian JX	✓	
Palmer, Barry J	✓	
Peterson, Lenette M	✓	
Tregenza, Norman A	✓	
Wheaton, Gary W		
Wall, Janet G	✓	
Potter, Frances D	✓	
Weber, Lucy M	✓	
Watrous, Rick H		
	15	0
TOTAL VOTE:		

Committee Report

CONSENT CALENDAR

March 2, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on JUDICIARY to which was referred HCR 17,

AN ACT declaring that Copp v. Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force. Having considered the same, report the same with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Lucy M. Weber

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	JUDICIARY
Bill Number:	HCR 17
Title:	declaring that Copp v. Henniker and the opinions which subsequently relied upon Copp versus Henniker are void and of no force.
Date:	March 2, 2011
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

Copp v. Henniker was decided in 1875, and addresses the availability of jury trials. The case has been reaffirmed over the intervening years. The New Hampshire House cannot, by House Concurrent Resolution, overturn a decision of the New Hampshire Supreme Court. The legislature has the power at any time to expand the right to jury trial by passing a bill to that effect.

Vote 15-0.

Rep. Lucy M. Weber
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

JUDICIARY

HCR 17, declaring that *Copp v. Henniker* and the opinions which subsequently relied upon *Copp versus Henniker* are void and of no force. **INEXPEDIENT TO LEGISLATE.**

Rep. Lucy M. Weber for JUDICIARY. *Copp v. Henniker* was decided in 1875, and addresses the availability of jury trials. The case has been reaffirmed over the intervening years. The New Hampshire House cannot, by House Concurrent Resolution, overturn a decision of the New Hampshire Supreme Court. The legislature has the power at any time to expand the right to jury trial by passing a bill to that effect. **Vote 15-0.**

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE:

Judiciary

BILL NUMBER:

HCR 17

TITLE:

Declaring that Copp versus Henniker & the opinions which it

DATE:

3.1.11

CONSENT CALENDAR:

YES

NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

Blurb—HCR 17

Declaring that Copp v. Henniker and the opinions which subsequently relied on Copp v. Henniker are void and of no force.

March 1 ITL 15-0 Consent

Copp v. Henniker was decided in 1875, and addresses the availability of jury trials. The case has been reaffirmed over the intervening years. The New Hampshire House cannot, by House Concurrent Resolution, overturn a decision of the New Hampshire Supreme Court. The legislature has the power at any time to expand the right to jury trial by passing a bill to that effect.

COMMITTEE VOTE:

15-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep.

For the Committee

Jacy M. Weber