

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

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 20, 1991 to July 10, 1991

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
63rd Legislative Day
Wednesday, June 26, 1991

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

Prayer by Reverend Russell Chase, Vassalboro United Methodist Church.

Pledge of Allegiance.

The Journal of Wednesday, June 19, 1991, was read and approved.

Committee of Conference Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Greater Legislative Oversight over Agency Rulemaking (H.P. 1284) (L.D. 1854) have had the same under consideration and ask leave to report:

that they are unable to agree

(Signed) Representative GWADOSKY of Fairfield, Representative GRAY of Sedgwick, and Representative LORD of Waterboro - of the House.

Senator KANY of Kennebec, Senator DUTREMBLE of York, and Senator CAHILL of Sagadahoc - of the Senate.

Was read.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Committee of Conference Report.

As you can see, the two bodies were unable to agree on this particular bill, L.D. 1854, which proposed an amendment to the Constitution to provide for greater legislative oversight over agency rulemaking. The Committee of Conference, however, did agree on a statutory change. That statutory change is the result of the Committee of Conference's work and appears on Page 7 of today's calendar, Bill "An Act to Amend the Maine Administrative Procedure Act" and that is the bill that we will be discussing later on.

I wanted to make that notice at this time so you understand that, while we did not agree on amending the Constitution to make this change, we did agree on the importance of making a statutory adjustment on this and that is represented with the bill that I just mentioned.

Subsequently, the Committee of Conference Report was accepted and sent up for concurrence.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

June 19, 1991

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

Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it Indefinitely Postponed Bill "An Act to Amend the Laws Regarding Enhanced 9-1-1" (EMERGENCY) (H.P. 702) (L.D. 1006)

Sincerely,

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

Was read and ordered placed on file.

The following Joint Resolution: (S.P. 763)

JOINT RESOLUTION RECOGNIZING THE 175TH ANNIVERSARY OF THE TOWN OF GUILFORD

WHEREAS, in the generation after the American Revolution, an ancient and unbroken wilderness in the District of Maine extended north of the Waldo Patent to the Citadel of Quebec; and

WHEREAS, in the year 1796, 5 years after the ratification of the United States Constitution brought the promise of democracy to a world worn weary in the service of tyrants, 92,160 acres of the wilderness on the north shore of the Piscataquis River were granted by the Commonwealth of Massachusetts for the endowment and support of Bowdoin College; and

WHEREAS, in the year 1804, Elder Robert Low, Deacon Robert Herring and Michael Webber of New Gloucester purchased tracts from Bowdoin College in Township 6, Range 7 and traveled north that summer to survey their metes and bounds; and

WHEREAS, the eldest sons of Low and Herring, with axes, hope and the spirit of cooperation, opened the first clearing that summer, just west of the spot where Low's bridge would soon stand, as its successor stands today; and

WHEREAS, in 1805, Low and Herring planted the first crop and built the first cabins, to make ready the homes in which their families would settle the next year; and

WHEREAS, by the end of the decade, with 10 families in residence and a sawmill erected, a town meeting was held and self government begun; and

WHEREAS, in 1812, the settlement of "Lowstown" was organized as Plantation 6, Range 7; and

WHEREAS, in the year 1816, the settlers petitioned the General Court of Massachusetts to be incorporated as the Town of Fluvanna; and

WHEREAS, on February 8, 1816, the Town of Guilford was incorporated by an Act of the General Court; and

WHEREAS, the year 1991 is the 175th anniversary of the incorporation of the Town of Guilford; now, therefore, be it

RESOLVED: That We, the Members of the 115th Legislature of the State of Maine now assembled in the First Regular Session, express our congratulations and best wishes to the people of our 215th town; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Robert Littlefield, Town Manager of Guilford, to each member of the Town Council, to the Guilford Historical Society and to the Guilford Public Library as an expression of our warmest regards on this historic occasion.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

Divided Report

(Later Today Assigned)

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-187) on Bill "An Act to Preserve the Integrity of the Maine State Lottery" (S.P. 80) (L.D. 143)

Signed:

Senators: MILLS of Oxford
KANY of Kennebec

Representatives: LAWRENCE of Kittery
JALBERT of Lisbon
PLOURDE of Biddeford
POULIN of Oakland
RICHARDSON of Portland
TUPPER of Orrington
DAGGETT of Augusta

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

Signed:

Senator: SUMMERS of Cumberland

Representatives: HICHENS of Eliot
BOWERS of Sherman
STEVENS of Sabattus

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-187)

Reports were read.

Representative Lawrence of Kittery moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Maine Human Rights Act Regarding Pregnancy" (H.P. 486) (L.D. 680) which was passed to be engrossed as amended by Committee Amendment "A" (H-224) in the House on May 16, 1991.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

Representative Hanley of Paris moved that the House recede and concur.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Hanley of Paris that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

39 having voted in the affirmative and 73 in the negative, the motion did not prevail.

Subsequently, the House voted to Insist.

Non-Concurrent Matter

Bill "An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies" (H.P. 1166) (L.D. 1707) which was passed to be engrossed as amended by Committee Amendment "A" (H-498) as amended by House Amendment "A" (H-676) thereto in the House on June 12, 1991.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-498) as amended by Senate Amendment "A" (S-367) thereto in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication: (S.P. 762)

115TH MAINE LEGISLATURE

June 19, 1991

Senator Georgette B. Berube
Representative Ruth Joseph
Chairpersons
Joint Standing Committee on State & Local Government
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan,

Jr. has withdrawn his nominations of Howard Goldenfarb of Portland and Colin C. Hampton of Cape Elizabeth for reappointment to the Maine Court Facilities Authority.

Pursuant to Title 4, MRSA Section 1602, these nominations are currently pending before the Joint Standing Committee on State & Local Government.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on **State and Local Government**.

Was Read and Referred to the Committee on **State and Local Government** in concurrence.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND FIFTEENTH LEGISLATURE
COMMITTEE ON AUDIT AND PROGRAM REVIEW

April 22, 1991

The Honorable Charles P. Pray, Chair
The Honorable Dan A. Gwadosky, Vice-Chair
Members of the Legislative Council

Pursuant to 3 MRSA, section 925, we are pleased to submit to the Legislature the final findings and recommendations required to implement the Committee's 1990-1991 study of the following agencies:

Department of Finance	Dept of Defense and Veterans' Services
- Taxation	Dept of Human Services
- Administrative Services	- Child Support Enforcement
- Accounts & Control	State Planning Office
- Alcoholic Beverages	State Harness Racing Commission
- Lottery	Board of Pesticides Control
State Liquor Commission	Board of Veterinary Medicine
State Lottery Commission	Agricultural Bargaining Board
Board of Property Tax Review	Seed Potato Board
Maine Human Rights Commission	Maine Milk Commission
Maine Commission for Women	Dairy Promotions Board
Maine High Risk Insurance Organization	Dairy & Nutrition Council
Capital Planning Comm.	Maine Blueberry Commission
Educational Leave Advisory Board	- Blueberry Advisory Committee
Maine Technical College System	
Dept of the Attorney General	

We would like to thank the following legislators who served from other joint standing committees for providing additional expertise and experience to the

Committee's review process:

Representative Patrick Paradis, Judiciary;
Representative Peter Manning, Human Resources;
Representative James Handy, Education;
Representative John Jalbert, Aging, Retirement & Veterans;
Representative Robert Tardy, Agriculture; and
Representative Susan Dore, Taxation.

We also note that these reviews were initiated by the 114th Legislature and would like to especially thank Neil Rolde who served as House Chair at that time as well as Senators Georgette Berube and Linda Curtis Brawn who do not currently serve on the Committee.

Sincerely,

S/Beverly M. Bustin
Senate Chair

S/Phyllis R. Erwin
House Chair

Was read and with accompanying report ordered placed on file.

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 21, 1991

To the Honorable Members of the 115th Legislature:

I am returning without my signature or approval, H.P. 1051, L.D. 1524, "An Act to Extend the Certificate of Need Program to All Major Medical Equipment." While I am in complete support of the need to control escalating health care costs, I believe that this legislation would neither provide an effective cost containment tool, nor move our State in the right direction with respect to a future health care policy.

First, there is some uncertainty as to how effectively Maine's Certificate of Need law is able to address the growing problem of health care costs. For this reason, changes have been made in the existing law which would be directly contradicted by L.D. 1524. Public Law 1990, Chapter 919, was enacted just last year to deregulate the purchase of major outpatient medical equipment by hospitals, thereby permitting them to compete more equitably with physicians and other health care providers. This change in the law was the result of a study conducted by a Commission established by the Legislature based on the premise that when a choice of setting is available for outpatient equipment, it makes sense to allow competition rather than restricting its placement to the highest cost setting. In addition, a new Study Commission entitled, "The Commission to Study Certain Provisions of the Certificate of Need Law" was established in the 1990 legislation. This Commission is required in 1994 to conduct a study of the results of the first two years of the deregulation of outpatient medical equipment to see what the effect has been on leveling the playing

field between hospitals and physicians with respect to the purchase of such equipment. I cannot support extending the Certificate of Need law to physicians and reversing the policy established in Chapter 919 before the results of deregulation are even known.

Second, I oppose this legislation because it would require non-hospital providers to compete for the limited funds available in the Hospital Development Account. Having facilities other than hospitals compete for the limited credits available annually in the fund may deprive Maine's community hospitals of their opportunity to reasonably update and improve the services they offer to Maine citizens.

Third, this legislation affects only very expensive medical equipment. I remain unconvinced that the increased costs of outpatient services would be affected by attempts to regulate those few pieces of equipment costing in excess of one million dollars outside hospital settings.

Finally, I have serious concerns whether regulation through the Certificate of Need process is appropriate for providers who are not paid on the basis of reasonable costs as determined by a regulatory body, such as we currently do for hospitals through the Maine Health Care Finance Commission. The Certificate of Need law was historically enacted to review capital expenditures in hospitals because hospitals are guaranteed payment on the basis of their financial requirements. Other health care providers are reimbursed under a variety of mechanisms and receive no guaranteed reimbursement for purchasing the equipment.

There are no easy answers to the intractable issue of increasing health care costs. However, I believe Maine has been moving in the proper direction with a mixture of regulation and competition, tort reform to reduce defensive medicine, expanded access to services, review of mandated benefits, and increasing emphasis on more judicious use of health care services. I support restraints on reimbursement, particularly when public funds are involved. However, in this instance, injecting the State's authority into purchasing decisions made by private parties whose finances are not currently regulated by the State, is contrary to this direction. Other approaches, including vigorously negotiating with providers and placing more responsibility on consumers for their use of services, will be far more effective in containing health care costs.

For all of these reasons, I urge you to sustain my veto of L.D. 1524.

Sincerely,

S/John R. McKernan, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Extend the Certificate of Need Program to All Major Medical Equipment" (H.P. 1051) (L.D. 1524) (C. "A" H-349 and H. "A" H-431).

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This bill was debated long and hard two weeks ago. I knew where it was going, the lobbyist from the Maine Medical Association told me right upfront they were going to get this vetoed.

To me, it is a moral victory. This bill has gone farther than it has ever before.

You never heard from your hospitals. That was the ironic part of this, you never heard from the hospitals, you only heard from the doctors. I knew that was going to happen because I have been talking to hospitals the past eleven years I have been here and they always said to me that they wanted a level playing field.

On motion of Representative Mayo of Thomaston, tabled pending reconsideration and later today assigned.

(Later Today Assigned)

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

June 24, 1991

To the Honorable Members of the 115th Legislature:

I am returning, without my signature or approval, H.P. 1332, L.D. 1923, "An Act Concerning Security Deposits."

This bill alters the definition of "security deposits" to include any prepayment of rent. Its effect is to prohibit owners of rental property from requiring a security deposit or advance rent payment in excess of two (2) months rent.

It has long been the law in Maine that owners of rental property can not require the payment of a security deposit in excess of two (2) months rent. However, there is no prohibition regarding the payment of advance rent, and owners of rental property often require the payment of advance rent in addition to a security deposit.

The laws that we enact must reflect the reality of how the people of Maine actually live. The reason that owners of rental property require the payment of both security deposits and advance rent is to provide adequate protection against the tiny minority of individuals who damage the rental property they live in, and leave the premises without paying the full rent that is due. While the security deposit can and is used to cover unpaid rent, its chief purpose is to provide for repairs to the property that might be necessitated by an abusive tenant. Advance rent is then used to ensure full-payment of rent for the entire rental period.

The proponents of this bill have suggested that this legislation is pro-tenant. It is not. The chief beneficiaries of this bill are those individuals who damage rental property or fail to pay

their rent. The cost that this group imposes on owners are inevitably passed along to the vast majority of tenants, who will be required to pay more for their housing to compensate for the irresponsibility of a few.

I am also concerned that L.D. 1923 will have an adverse impact on seasonal rentals throughout Maine. It is common practice for owners of seasonal properties to rent these properties to out-of-state visitors for short lease-terms, usually for six months or less. To ensure full-payment of rent, and protect themselves from any possible damage to their property, it is customary for owners of seasonal property to require advance rent in addition to a security deposit. If L.D. 1923 were to become law, this arrangement would be prohibited, and owners of seasonal property in Maine would be put at a disadvantage relative to out-of-state renters who might elect to abuse their position. While I am sure that these individuals represent only a fraction of the many seasonal visitors that come to our state every year, it is still true that the change proposed by L.D. 1923 would tend to grant an advantage to the irresponsible few at the expense of the majority. I cannot support such a change.

While I am aware of the arguments advanced in support of this bill, I do not believe that its supposed advantages are compelling in light of disadvantages that I have outlined. For that reason, I urge you to sustain my veto of L.D. 1923.

Sincerely,

S/John R. McKernan, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act Concerning Security Deposits" (H.P. 1332) (L.D. 1923).

On motion of Representative Gwadosky of Fairfield, tabled pending reconsideration and later today assigned.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

Bill "An Act Regarding Simulcasting of Harness Racing" (EMERGENCY) (H.P. 1373) (L.D. 1958) (Presented by Representative TARDY of Palmyra) (Cosponsored by Representative NUTTING of Leeds) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Reference of Bills had suggested reference to the Committee on Agriculture.)

Under suspension of the rules and without reference to a Committee, the Bill was read once and assigned for second reading later in today's session.

Bill "An Act to Fund a Collective Bargaining

Agreement" (EMERGENCY) (H.P. 1374) (L.D. 1959) (Presented by Representative MARSANO of Belfast)

Bill "An Act to Fund Collective Bargaining Agreements and Benefits for Certain Employees Excluded from Collective Bargaining" (EMERGENCY) (H.P. 1375) (L.D. 1960) (Presented by Representative LIPMAN of Augusta)

The Committee on Reference of Bills had suggested the Committee on Appropriations and Financial Affairs.)

Under suspension of the rules and without reference to a Committee, the Bill was read once and assigned for second reading later in today's session.

Bill "An Act to Amend the Maine Administrative Procedure Act" (EMERGENCY) (H.P. 1371) (L.D. 1955) (Presented by Representative GRAY of Sedgwick) (Cosponsored by Representative LORD of Waterboro, Senator CAHILL of Sagadahoc and Senator DUTREMBLE of York) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

Under suspension of the rules and without reference to a Committee, the Bill was read once and assigned for second reading later in today's session.

ORDERS

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

ORDERED, that Representative Marc J. Vigue of Winslow be excused June 19 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Alvin L. Barth, Jr., of Bethel be excused June 22 to June 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Hugh A. Morrison of Bangor be excused June 23 to July 9 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative MITCHELL from the Committee on Banking and Insurance on Bill "An Act to Amend the Maine Human Rights Act to Make Effective Provisions against Employment Discrimination" (H.P. 720) (L.D. 1024) reporting "Ought Not to Pass"

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

CONSENT CALENDAR

First Day

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

(H.P. 928) (L.D. 1348) Bill "An Act to Reinstitute the Township of Misery-Sapling Gore" Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-691)

(H.P. 652) (L.D. 926) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (EMERGENCY) Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-692)

(H.P. 1197) (L.D. 1750) Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY) Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-693)

There being no objections, the above items were ordered to appear on the Consent Calendar of later in today's session under the listing of Second Day.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

PASSED TO BE ENACTED

Emergency Measure

An Act to Make Allocations from the Public Utilities Commission Regulatory Fund and the Public Utilities Commission Reimbursement Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993 (H.P. 648) (L.D. 922) (C. "A" H-678)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Making Additional Allocations for the Expenditure of Funds Received by the State as a Result of the Federal Court Orders in the Stripper

Well Oil Overcharge Case, the Exxon Oil Overcharge Case and the Diamond Shamrock Oil Overcharge Case (H.P. 1295) (L.D. 1872) (C. "A" H-680)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Making Additional Allocations from the Highway Fund for the Expenditures of State Government for the Fiscal Year Ending June 30, 1991 (H.P. 1349) (L.D. 1942) (C. "A" H-681)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Revise the Salaries of Certain County Officers (H.P. 1357) (L.D. 1949) (H. "B" H-682)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Concerning the State's Escrow Accounts (H.P. 1139) (L.D. 1664) (C. "A" H-679)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide Additional Funds for Debt Service Payments for the Fiscal Year Ending June 30, 1991 (H.P. 1363) (L.D. 1951)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Emergency Measure

(Later Today Assigned)

An Act to Correct Errors and Clarify Provisions in the Solid Waste Laws (H.P. 1296) (L.D. 1873) (H. "A" H-677 to C. "A" H-667)

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

On motion of Representative Mayo of Thomaston, tabled pending passage to be enacted and later today assigned.

FINALLY PASSED

Emergency Measure

Resolve, Authorizing the Commissioner of Corrections to Enter into an Agreement with the Town of Thomaston for the Maine State Prison's Share of Upgrading the Town of Thomaston Sewer System (H.P. 1367) (L.D. 1953)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

ENACTOR

(Later Today Assigned)

An Act to Amend the Child Labor Laws and to Allow Illegally Employed Minors to Bring Suit Against Their Employers for Work Related Injuries (H.P. 635) (L.D. 905) (S. "A" S-347 to C. "A" H-593)

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

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

PASSED TO BE ENACTED

An Act to Appropriate Funds from the General Fund for Search and Rescue Activities (H.P. 1343) (L.D. 1934)

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

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Wednesday, June 19, 1991 have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

An Act Concerning Unemployment Benefits During Lockouts" (H.P. 649) (L.D. 923) (C. "A" H-326)
TABLED - June 19, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Reconsideration (Returned by the Governor without his approval)

On motion of Representative Mayo of Thomaston, retabled pending reconsideration (Returned by the Governor without his approval) and later today assigned.

The Chair laid before the House the second item of Unfinished Business:

An Act to Annex the Town of Richmond to Lincoln County (EMERGENCY) (S.P. 683) (L.D. 1811) (H. "A" H-671 to C. "A" S-280; H. "A" H-549; S. "A" S-346)
TABLED - June 19, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Holt of Bath, under suspension of the rules, the House reconsidered its action whereby L.D. 1811 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-280) as amended by House Amendment "A" (H-671) thereto was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-671) to Committee Amendment "A" (S-280) was adopted.

On motion of the same Representative, House Amendment "A" (H-671) to Committee Amendment "A" (S-280) was indefinitely postponed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-549) was adopted.

On further motion of the same Representative,

House Amendment "A" (H-549) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-685) to Committee Amendment "A" (S-280) and moved its adoption.

House Amendment "B" (H-685) to Committee Amendment "A" (S-280) was read by the Clerk and adopted.

Committee Amendment "A" (S-280) as amended by House Amendment "B" (H-685) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-280) as amended by House Amendment "B" (H-685) and Senate Amendment "A" (S-346) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the third item of Unfinished Business:

An Act Related to the Office of Substance Abuse (S.P. 90) (L.D. 175) (S. "A" S-365 to C. "A" S-359) TABLED - June 19, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Joseph of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 175 was passed to be engrossed as amended.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-359) as amended by Senate Amendment "A" (S-365) thereto was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-365) to Committee Amendment "A" (S-359) thereto was adopted.

On further motion of the same Representative, Senate Amendment "A" (S-365) to Committee Amendment "A" (S-359) was indefinitely postponed.

The same Representative offered House Amendment "A" (H-688) to Committee Amendment "A" (S-359) and moved its adoption.

House Amendment "A" (H-688) to Committee Amendment "A" (S-359) was read by the Clerk and adopted.

Committee Amendment "A" (S-359) as amended by House Amendment "A" (H-688) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-359) as amended by House Amendment "A" (H-688) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the fourth item of Unfinished Business:

An Act to Amend the Requirement that Contracts Be in Writing (H.P. 662) (L.D. 941) (S. "A" S-353 to C. "A" H-465)

TABLED - June 19, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

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

The Chair laid before the House the fifth item of Unfinished Business:

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-499) - Minority (3) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Provide for Deferrals of Unfunded State Mandates for Municipalities Experiencing Financial Hardships" (EMERGENCY) (H.P. 1190) (L.D. 1743) TABLED - June 19, 1991 (Till Later Today) by Representative JOSEPH of Waterville.
PENDING - Motion of same Representative to accept the Minority "Ought Not to Pass" Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

The Chair laid before the House the sixth item of Unfinished Business:

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (5) "Ought to Pass" as amended by Committee Amendment "A" (H-277) - Committee on Legal Affairs on Bill "An Act to Impose a Limit on Campaign Contributions" (H.P. 785) (L.D. 1117) TABLED - June 19, 1991 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Motion of Representative LAWRENCE of Kittery to accept the Majority "Ought Not to Pass" Report. (Roll Call Requested)

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Lawrence of Kittery that the Houses accept the Majority "Ought Not to Pass" Report and later today assigned. (Roll call requested)

The Chair laid before the House the seventh item of Unfinished Business:

Resolve, to Establish the Commission to Study the Feasibility of a Capital Cultural Center (EMERGENCY) (H.P. 1164) (L.D. 1705) (H. "A" H-624 to C. "A" H-453) TABLED - June 19, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Final Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending final passage and later today assigned.

The Chair laid before the House the following matter: Resolve, to Establish the Commission to Study the Feasibility of a Capital Cultural Center (EMERGENCY) (H.P. 1164) (L.D. 1705) (H. "A" H-624 to C. "A" H-453) which was tabled earlier in the day and later today assigned pending final passage.

Representative Crowley of Stockton Springs moved that the rules be suspended for the purpose of reconsideration.

The SPEAKER: The Chair hears objection.

Subsequently, the Resolve and all accompanying papers were indefinitely postponed.

Sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Banking and Insurance** and the Committee on **Labor** pursuant to Joint Order H.P. 1178 reporting **"Ought to Pass"** on Bill "An Act to Improve the Maine Workers' Compensation System" (H.P. 1372) (L.D. 1957)

Signed:

Senators: CONLEY of Cumberland
THERIAULT of Aroostook
KANY of Kennebec
ESTY of Cumberland

Representatives:

RAND of Portland
RUHLIN of Brewer
PINEAU of Jay
JOSEPH of Waterville
ST. ONGE of Greene
TRACY of Rome
ERWIN of Rumford
MITCHELL of Vassalboro
MCHENRY of Madawaska
KETOVER of Portland
McKEEN of Windham

Minority Report of the same Committees reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-689) on same Bill.

Signed:

Senators: CARPENTER of York
BRAUN of Knox

Representatives:

HASTINGS of Fryeburg
GARLAND of Bangor
CARLETON of Wells
AIKMAN of Poland
LIPMAN of Augusta
BENNETT of Norway

Reports were read.

On motion of Representative McHenry of Madawaska, the House accepted the Majority "Ought to Pass" Report, the bill read once.

Under suspension of the rules, the bill was read a second time.

Representative Mitchell of Vassalboro offered House Amendment "B" (H-696) and moved its adoption.

House Amendment "B" (H-696) was read by the Clerk and adopted.

Representative Erwin of Rumford offered House Amendment "C" (H-697) and moved its adoption.

House Amendment "C" (H-697) was read by the Clerk and adopted.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: First of all, I can say that I have never been prouder to be a member of this body than I have been as we have worked on this issue. It is probably one of the most difficult issues that we have faced.

I have been extraordinarily impressed with the professionalism of my colleagues as they have tried to find out what we can do to make a broken system work.

I have been extraordinarily impressed with the attention of my colleagues in the caucus this morning who sat here and listened and asked questions and told me your concerns and what you were hearing from the people back home.

One thing that I have gotten out of this process is that all of us, no matter where we come down in the final analysis, share some common goals. I would like to take a few minutes of your time again as we struggle with a very difficult issue but I say right up front, I have no silver bullets for you. It is not going to get any easier and you are going to have to make some hard choices.

I have heard some of my colleagues that I respect very much from both sides of the aisle saying, "I am not going to vote for anything. I am not going to vote for anything because this doesn't do it."

The time for action has come, it is not responsible to sit on your hands and vote for nothing. You could have been to all of the committee meetings and even now you can come up with your specific concerns and we will try to address them. But, it is no longer responsible to sit back and say, "Nothing works and I have no responsibility."

There is one thing I am sure of and this is the one thing that I can promise you will happen, if we do nothing in this body, the only people who are going to benefit are the insurance carriers. I don't believe you want to go back home after this session has adjourned when you are not in the comfort of this little room talking to your buddies and friends and stand up before your employers, before your injured workers and before those people who are needing jobs and say that your major contribution to the Workers' Compensation debate was making it more profitable for insurance companies. I don't know a single person in this room that feels that way but I want to lay it out for you as to what your real choices are.

I am sorry I can't bring to you, nor can Representative Hastings who will be offering the next amendment, a painless solution. There are no more placebos, there are no more sugarcoated pills. We have reached the point of a system on collapse and it

is not just in Maine, it is all over the country. It is decades worth of bad reserving practices of insurance companies and all kinds of other reasons. I am not going to blame anybody because that gets us nowhere.

What I want to talk about is where we go from here. It is our responsibility — in fact the last comment I had when we met together as Republicans and Democrats (and boy, it was a big committee of both Banking and Insurance and Labor) the last opportunity that I had to speak with my committee, I looked out at the room full of lobbyists and I said I wished that they would all go home. If they all went home and we could vote in private up here, I am sure we would do what is right because every single individual who spoke before our committee had a financial stake in the issue. They had a financial stake as an employer who paid premiums, they had a financial stake as a self-insurer who wanted to bring rates down, they had a self-interest in keeping rates up for insurance carriers, rehabilitation providers, doctors, everybody has a stake. In fact today, the moment of truth has come because now we are talking with only the people here who were elected to represent all of those people. You are elected to represent every single one of those stake holders and you can't simply say, I am in this just for savings. We are all in it for savings but you are in it for a responsible system that creates the kind of healthy business climate that Maine wants.

We hear a lot about people who are on the system, that we don't want them to be on the system, we want to get them off.

I just read an editorial in the Bangor Daily News a few weeks ago about what terrific work ethics we have in the State of Maine and they were trying to encourage to make a foreign trade zone and to welcome them to Maine because Maine workers were the best workers in the country. I think that they are. Let's not get sidetracked from that other side debate about all these people who are hurt on the job who shouldn't be paid.

Let me talk with you very briefly about the goals and then I am sure the other members of both committees can add more indepth discussion and answer any questions in that process.

I was asked, what is one of the most important things that we can do for the system? Even the actuaries said, the one thing that we all agreed on was that the most important thing you could do was to "get the loss out of the system." What does that mean? You cut out the accidents and the serious injuries.

Mr. Tierney — as I mentioned earlier, this is not Jim Tierney, this is John Tierney, the actuary, stated that you could almost have a direct correlation if you reduced the accident rates by 50 percent and if you didn't change another thing, you would reduce your rates by 50 percent. Of course it is very unlikely that nothing else would change but I am just saying that's a ballpark figure, you don't take it to the bank, but you reduce the rates and you can reduce your premiums. That is not true in one portion of our market which I will talk about later, but for the self-insured and for the others, it is an important step they can take.

The other thing that both parties agree on is getting people back to work very quickly. Can you think of anything less dignified to be told that you are not wanted any more because you happen to have

the misfortune of getting hurt at work? What that does to your psyche as you are sent (and often by the insurance carrier) to doctor after doctor. You begin to feel very worthless. You should be able to get right back to your old job if it is at all possible or a modified version of that job as soon as possible. I don't think we disagree on that.

We want a quick resolution to disputes. This pay without prejudice issue — some of the members of the committee can talk about that, that is an important goal that we all share.

We share medical cost containment issues. We don't want doctors charging more to their comp clients who have comp insurance than they do to people who have Blue Cross/Blue Shield and we are saying so, both sides agree to that.

We talk about generic drugs — that may not seem big but there is no one big answer. It is lots of little things to medical cost containment. So, we all know that we are all in it for savings because we all know, and we had a very eloquent testimony this morning from Representative Gould, a small business man who pays almost half his income on Workers' Comp premiums that there is a real problem here. I would never ask any of you to go home and tell your employers that you don't care what they are paying for comp costs. You should care. If you don't care, we are in terrible trouble. So, there are many, many things that we agree on.

One thing that I want you to know about the Majority Report is that it also tries to take some long-term solutions. I now many of the members of the Banking and Insurance Committee, Republicans and Democrats alike, said over and over again, the system is broken, that an injured employee doesn't even feel comfortable going to his employer and his employer feels uncomfortable talking to them. That relationship has to be fixed. They are not adversaries simply because someone had the misfortune of getting hurt at work. Both sides agreed that maybe if we have the "medical only's" upfront, then you would have that relationship with the employees again because you could pay for the emergency room visit as a deductible. Just like an automobile insurance policy deductible, we hope that will bring premiums down too because you are paying those out-of-pocket medical costs upfront early. So, that is just a cursory look at our common goals.

I would be remiss (I apologize to those of you who heard me before) if I did not caution every one of you in here. I would not want you to leave this room and go tell anyone exactly what kind of savings that you have accomplished here by your vote on any of these bills. You know the joke about the economist, "Where would they be without their hands because they always say on the one hand this and on the other hand the other?" I will give you a very specific example, the Superintendent of Insurance has announced in September, if nothing happens in this body, that a 14 percent rate increase will go into effect. That is his best effort on looking at the data presented to him.

The Public Advocate, who is an advocate for the employers of this state, intervened in that case as he is charged to do by Maine law. His actuary said that the insurance industry deserved a .9 percent increase, same set of figures, same set of facts, same businesses, same number of injuries, same system. The AFL-CIO and the Chamber of Commerce agreed that no rate increase was justified. The

insurance carriers represented by their organization NCCI said, "Oh, no, we need over 30 percent." So, I give you a range of numbers from zero to .9 percent to 14 percent to 30 percent. We are going to have to do the best we can with the ranges, knowing that both groups here want real savings, and none of us are trying to do anything about those numbers other than to present to you our best educated guesses.

Let me give you one more example where the numbers are a little difficult to work with. You all know and have heard about the Ashby case, (frankly, I never heard of Ashby until I joined this committee) under the Ashby case, those of you who work for collective bargaining groups and larger self-insured in this state, for example Bath Iron Works, know that that decision said that to determine your wage rate that it was based on inclusion of your benefits. If you work at Bath Iron Works, that is a lot of money. So, it greatly ups their responsibility.

What was very interesting to me in our dueling actuaries, (I have no other way to describe this silliness that has gone on with the numbers) the Bureau of Insurance said that any savings from repealing Ashby (which both parties agreed to by the way) were in the future. Last night as I was reading through some materials that I hadn't had a chance to read before, I read a brief presented to the Supreme Court of the State of Maine which included all these major employers. In that brief they said, if we don't get Ashby repealed right now, it is going to increase our rates by 10 to 40 percent. Now, which is it? Ashby was repealed because we thought it was responsible, it is not in the best interests of those people who are advocating for labor because they don't want that to happen but we thought it was responsible and we did it and there definitely is a cost impact on doing that. If you don't believe it, call some of these employers on your break and I think that they will be honest with you, maybe not on the floor, but they will be very honest with you privately and tell you that the Ashby repeal is very, very important but it is also important for you to look at what the numbers mean.

In addition to that, we were charged in the Majority package for adding costs to the system. One of the ways we added costs to the system was to talk about dealing with a Mutual Employers Trust Fund. First of all, it is ludicrous that it adds or saves costs. I will put them both out and I am going to do that because it doesn't kick in until next year. So, I don't want anybody over-promising anything or under-promising, it neither adds nor detracts so let's get the record straight on that one. I want to tell you where that came from. Before this week, we worked steadily as Subcommittee B, Republicans and Democrats, you will find — and I think Representative Hastings will concur — that many of the things that we agreed to on Subcommittee B are in both bills. Many of them are but, of course, there are changes. We voted 11 to nothing on our straw votes, and they were straw votes, to have in place enabling legislation for this mutual insurance fund because we were so worried about being held hostage again or being blackmailed by all the insurers as they gathered on the bridge at Kittery or should I call it the David Stevens Bridge, I am not sure, threatening to leave the state and making this body react in a rather irrational fashion in 1987. You did the best you could with a gun at your head, As I recall also, you had high hopes and you were willing,

many of you who represent large numbers of working men and women, to cut their benefits dramatically only to see the rates continue to rise because you never got at the fundamental problem. One of the fundamental problems to me (and if you don't address it before you go home, I hope I don't ever hear any of you on television or radio or anywhere else saying you have done something for Workers' Comp) is that most of the business people in this state, except those lucky enough to be big enough to self-insure, 90 percent of those people who have to buy these policies and you know it is a mandate from this state, we do mandate the purchase of Workers' Compensation insurance, you can't just say I don't want it and I won't get it. Well, you can't get a voluntary insurance writer to write that for you. You can't go out and buy it. If they don't want to sell it to you, they don't have to because we have this little backstop and I don't want to get you lost in terms, but it is called a residual market, it is like a safety pool, an accident prevention account. In health, we call it the high risk organization for those people with no other place to go. In 1987, you were really trying to get people out of that pool because you knew that all the small businesses that you represent, no matter how safe they are, can't see their rates fall because they are supporting the bad, the good and the indifferent. They are all in this horrible pool together. In that pool, some of you have read it and if you haven't no matter what you think of the Public Advocate — I know that is a question this body debates from time to time — an extraordinarily well-written brief has been done in which he uses a professional actuary and he describes (frankly, it was when I saw that that I thought that maybe we should look at trying to do something about it now, not sometime in the future) that the insurers in this market take very little, if any, risk because they don't underwrite. Normally that is what you buy insurance for isn't it, to protect you against risks? If they happen to lose a little money and their profits aren't what they thought they would be, do you know who makes the difference up with a surcharge? The employer. So, it is a cozy little place to be if you are writing insurance. You don't have to take the big risks, you get this little surcharge put on the employers that you are writing for to help you with your profit margin and your servicing fee. No matter how well you service and go in to help those people with their loss control, and I have already told you that is the number one way to reduce costs, is over 25 percent. If that is not broken, then I don't know what is.

We have an opportunity to address all these issues.

I am sorry to have taken so much of your time, I know I have just scratched the surface but I am sure that in the course of this debate, you will be able to ask questions. Other members of the committee are going to talk in more detail on specific parts. It is a big issue and I again congratulate you for taking the time and for being concerned. Whatever you do, realize that you are a stake holder, you are the only stake holder who can do the fair thing, the right thing because you are not being paid by any of those people. You were elected to represent all of them and that is why I believe in this process as painful as it has been for all of us. I hope that you will take the time and even read this. It is very hard to read sometimes. I hope you will take

the time to read it and know exactly what you are voting on.

The final thing is — and then I would turn it over to other committee members — are there real savings? That is a very legitimate question, but you also understand the caveat I gave you of what the numbers mean. In the amendment that we just adopted, we have said, and as you know the Superintendent has tentatively said that in September, if nothing happens, there will be a 14 percent rate increase. We are saying there will be no rate increase until January, so there is a freeze until we have a chance to see what these reforms really accomplish.

Now, you do understand that the 14 percent is based on actual experience, what has happened in the past. Anything that happens now is pure guesswork. So, we think that is an important period of time to see what meaningful effects this has.

For the people who are stuck in that awful market I have described so much to you, if an employer is willing to participate in a "safety pays" program, he can get an immediate, this year, 15 percent reduction. I have already described to you the importance of Ashby for the larger self-insured. Our committee, when we were still working as a whole in Banking and Insurance, also agreed to make it easier for self-insured to self-insure.

There is one difference in the package. We felt that it was also reasonable to give a very tightly crafted opportunity for self-insurers to use an irrevocable letter of credit. We thought that was important because it, first of all, protects the workers should a claim be made because the money would be there. Secondly, all of you in here have talked so much about economic development — talk to L.L. Bean and some of the others who would like to use this tool because they would like to free up some of their capital to expand. It is a responsible approach.

Again, thank you for listening. I know you will ask your questions and I do appreciate your attention.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I am pleased to be on the Majority Report of the Banking and Insurance and Labor Committee package. Some of the issues that some of you have asked about in quiet conversation with me is, "What can we do to help small businesses?" I am saying to you that we have addressed the issue of the voluntary market in the Majority Report. Although we cannot expand that market or depopulate the residual market by law, we have asked the Superintendent of Insurance to adopt rules in order to expand this voluntary market.

Representative Mitchell has talked to you about the residual market or the assigned risk pool. All employers in this state who are not in the voluntary market and that is an average of 8 percent or 9 percent of these insured in this state are in the voluntary market with the exception of those persons who purchase policies from one particular company, Hanover, where they sell 23 percent of their insurers are in the voluntary market.

It is important for you to know that currently there are no incentives for employers to have safety programs because, as safe as their workplace may be, they will still find themselves in that assigned risk pool or residual market. In this piece of legislation, we felt it was important to expand that

voluntary market. As we had said in 1987, it has not occurred, there have been no rules forthcoming or no suggestions in how this could happen. So yes, you have helped your small employers because they can reduce their costs by close to 50 percent and, as a small business in Oakland, Maine with 230 employees, very aggressive safety program, he has had difficulty trying to get into the voluntary market. He has currently reduced his rates to some extent because he has shopped for policies. But, as we promulgate rules and as these rules are developed, we will find that this market will be expanded.

I had asked the Superintendent of Insurance if he would provide us with guidelines to help us to help him to formulate these rules. Although he said he was unable to do it because of time constraints, I feel confident that these rules will be developed.

Why is this very, very important? Because insurance carriers today will not service small accounts. It is much better for them to lump into this residual market all these small employers. So, I think this is an important piece in this package for you to be aware of.

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

Representative RAND: Mr. Speaker, Men and Women of the House: One of the most controversial pieces of this whole process that came to the surface was the definition of compensability. We were told that there were people receiving compensation in the State of Maine for injuries or illnesses that were not work-related.

As you know, we held hearings, we heard from every single solitary person (I believe) in the State of Maine who has any interest whatsoever in Workers' Compensation. During all of our hearings and deliberations, we discovered that Maine defines compensability the same way 42 other states in the union define it.

The one problem that did arise and that we did address in the Majority package was that, if someone was out on a work-related injury and sustained another totally separate and apart type of injury or came down with multiple sclerosis, they could, in some instances, receive Workers' Compensation. It was primarily left up to the decision of different commissioners. We took a very serious look at this and decided that we would redefine compensability to that limited extent, that if the injury or illness was not causally related to a work injury, there would be no compensation paid.

The opponents of this particular position have broadened the definition to such a degree that the litigation will be unbelievable. If we are going to include factors such as the normal aging process in defining compensability, (and this was something that was very strongly suggested to us) we would spend the next ten or fifteen years in court for every injured worker who was over the age of 38 or 40 because all of us who have reached that age, and some of us who will reach it some day, do suffer from the normal aging process. We have a little bit of arthritis, our vision is no longer 20/20, all of these would have to be fought out, every single solitary case would have to be fought out in court. Our charge was to reduce litigation, to get the lawyers and the unnecessary medical people out of this system. The Majority Report has done that.

I urge you all to support it.

The SPEAKER: The Chair recognizes the

Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: When I started working on this Workers' Comp bill, my goal was to protect the workers of this state to make sure that we do not cut benefits, to lower the premiums for our small and medium-sized businesses and, again as in 1987, to help the self-insurers also, but that was the least of my goals. I want to help the small and medium-sized business people and to make sure (as I was told) that benefits to the working people of this state would not be cut. I stayed with that goal. Finally at the end of the last month, we saw that we were cooperating until then but then the Republican party and Democrat party sort of went separate ways and started renegeing on what we thought we had agreements on and the committee started splitting — this is the committee on Labor. Banking and Insurance did not have that happen, I assume.

It was apparent to me by the beginning of June that we were going to have two reports, very apparent. Therefore, we, as Democrats, chose not to fluff, not to decorate, not to put a package before this House that needed to be amended and able to negotiate on and to cut, we chose to put our best package forward, something that we will stick to to the end, not something that we are going to negotiate, something that we really mean business with. We could have fluffed it, we could have put a package forward that we could have taken out things and negotiated but we realized that we had to be honest with each other on both committees and to put the best package forward that we could. That is exactly what we did.

I have received a few post cards here, quite a few. These are all workers. I have received just as many letters. I have received just as many from employers as well as employees. The majority of the employers that I talk with really don't want to cut benefits to the working people. They want premiums cut. We cannot force the Superintendent of Insurance to provide cuts but we are allowing (with the amendment that has been presented) a period which we hope the Superintendent of Insurance will look at it seriously and come up with a real good decision.

We feel we took the middle of the road, we didn't take the highest of the three actuaries, we took the middle of the road and we do have savings. We have savings for our working people, we have our employers. I am confident that if this were to pass, we would no longer have a monopoly, the insurance monopoly that we have in this state, we would have some competition. That is what is sorely needed in this state, competition. Until the day that we have competition, we are not going to solve this problem because, as long as we have a superintendent who reacts to the insurance industry as he has in the past, (I am not saying that he will continue that) it appears to me that almost everything that the insurance companies want, they get, because the actuaries for the Chamber of Commerce — they appear before him and said zero. The Public Advocate says .9; and the NCCI says 30 percent, NCCI is your insurers. The majority of the employers out there want relief. I assure you they don't want relief by cutting benefits to those people who deserve Workers' Comp. We have a no-fault system, supposedly. Well, that no-fault system we have never touched the employers total immunity from lawsuits. I have had bills in here that would have allowed an employee to

sue the employer if he or she were to violate safety rules, OSHA violations, but the committee just didn't accept that because it was breaking the faith with what we have this no-fault system for, for the simple reason that we are not allowed to sue. I think that that would make a lot of employers pay attention to their safety.

I have asked Mr. Tierney for a number as to what would happen if the State of Maine, with the same laws that we have on the books, the laws that we presently have, were to have 50 percent less accidents, 50 percent less severity — of course they are hard to pin down — they wouldn't commit themselves to saying that you would probably have 50 percent but they wouldn't deny that you would have 50 percent savings. They never denied it.

I am not sure if Senator Kany has received it in writing but this was on a telephone conversation that we had with them yesterday.

I asked one of the actuaries that was before our committee, what is it that really jumps at you in the State of Maine? The two things that he did say that jumped at him that were glaring and could be used as a national example is that we have a high rate of injury and we have a higher severity of injury. He said if you address those, you address the problem.

The other problem that we have is no competition. We do not have competition and until we do have competition, our employers are not going to see any relief, I am convinced.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I know it is very warm in here today and that certainly none of us want to be here.

I must say this is probably one of the most important issues that you are going to be addressing this legislative session because it affects the entire state economy. It affects the workers, the employers, all of us. What is happening out there is that we have a lot of people who cannot get a job because they have been blacklisted. We have a lot of people who say, we can't afford our premiums because every single year those escalate beyond their capacity and that they leave the State of Maine.

I hope you are going to listen to what is being said. I tend to think that we become kind of mundane here sometimes and we don't take this very seriously because we have other things that we are concerned about. I assure you, ladies and gentlemen, that those two committees worked very hard, hundreds and hundreds of hours were put into this package. I would hope that you would take the Majority Report very seriously. I think it is probably one of the best reforms that this legislature could possibly put together. No one is saying to you that this is 100 percent perfect. There are things that need to be tinkered with. We will do that but we must take one giant step, not ten giant steps backwards. I believe that the Minority package will do that because it cuts workers benefits. Think about that. Who are we hurting?

There are many things in this package and I could start listing them to you but I think you heard the good chair mention many of them. You have heard other members of the committees mention them. There are several that I think are very important. One is the medical end. The medical end is costing us a great deal of money. With the 24 hour service for

medics, it will help save costs because many people will be able now under our program to have a deductible that would be between \$250 to \$500 that would come out of pocket. It would save a lot of money if we would take the medics out of Workers' Comp. That is a deep concern and I know that most of you know that would save us a lot of money.

The other concerns that I have are, how we review the medics and how these people are treated when they do get hurt. What happens is (I am going to give you a quick scenario because I think some of you might not recall — I did mention this in caucus today and that is why we are here today because of this particular problem and that problem is) — when an employee gets hurt, that employer becomes his adversary. Then we have a problem of reporting how that accident occurred.

You know and I know that all of those calls are not Workers' Comp cases. We tend to find that small businesses do not have nurses and do not have medical people on duty as some of the larger companies do. Basically a lot of the large companies have found themselves going self-insured because it tends to be cost effective. But, the small companies in this state are truly suffering, a lot of them cannot afford to have Workers' Comp. When a person gets hurt on those small jobs, they immediately say, "Let's take him right away to the emergency room." Costly, very costly. Immediately they have to file a report and that is called first response. That first response is then added into the list as a Workers' Comp case.

We have not got the worst record in the United States, we do not because of the poor record keeping and we have been told by expert after expert that that is not true. What happens is we probably boil it down to maybe 23,000. That would certainly change the way we set the rates here but what happens is all of us are put into the same pool, all of us are at the same rate, all of us are at the same risk and we all pay those high premiums. I call that unfair. I am sure you do too.

My committee that I sat on was Subcommittee B, which is the Banking and Insurance Committee. I think you heard my chair say that we took a vote, a straw vote at that, and we were bipartisan if I recall, but we all supported it in the form that we presented it. It is interesting how that changes as time goes on. Now we have got several amendments to the Committee Amendment and then we have got others who have got their own package. That is very sad because I thought, for once, that we were going to have a package that we all could support. For once, I thought when we sat there listening to hundreds and maybe thousands of people say, (I know I have received many phone calls and letters as probably you have) "Help us, we are in trouble. Please, we need a Workers' Comp reform in this state." Now, I see that we have a problem that we have to have several plans, as usual, the Majority and the Minority. I was hoping that would not happen because we do have a serious problem with the deficit in this state and to deal with it as a Workers' Comp problem is wrong or to put it off the backs of the injured worker is wrong. Blacklisting people is wrong, discrimination is wrong, higher premiums is wrong. I think step-by-step, piece-by-piece, the committees came together with something that I think is fair.

I would hope that you would read the material and ask questions. I am not going to repeat everything

that has already been said, but ask questions. If you have concerns, we could work with you on this. I think we did that in our caucus this morning and I am sure you probably did it in yours too.

Ladies and gentlemen, (I am going to say it again) this is probably one of the most important things that we do today. We have people standing out in the hallways who have been outside lobbying and saying, "Hey, I am injured, I can't get back to work, help us, do something for once."

We were here for the 1987 reform and so was I and I didn't vote for it. At that time we made a big mistake and I don't plan to make that big mistake again. For once, I hope we work together as one legislature and report out this bill.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I take exception a little bit with some of the comments that have been made. They say it is one of the most important issues you will face in this session. I heard it very accurately described a number of times it is the issue, the problem of the decade. We have a problem with our budget. We will continue to have a problem with our budget but I assure you, in two years, the problem with that budget will be resolved. Hopefully, when we leave here, the immediate problem of Workers' Comp will be resolved. I assure you if you look back at the history of Workers' Comp that Workers' Comp has been the social, and economic as well, problem of the decade and perhaps longer.

This is the opportunity in 1991 to mark a watershed year in evolution of Workers' Comp and its policies. Workers' Comp was established approximately in 1915 as a no-fault, make whole, type of insurance. I think you are all familiar with this, I am not going to go back through that. It went along its way slipping and sliding in here, patchwork quilt here, another little law here until finally this state and all the other states in this nation ran into such a problem with it that the President made a commission back in 1971 or 1972. That commission reported to the President that it was unable to make any national recommendations. The State of Maine made a watershed year in 1972 and accepted many of the recommendations of that commission. That led us down a separate path. Since that time, the rest of the nation had melted back in but 1972 or 1973 was one of those watershed years.

Now we come in 1991, Maine is not as bad as Texas, it is not as bad as California, is not as bad as Michigan. The states, again, are in a massive problem.

I want you to know that we are right out front with the rest of them, we have a problem and the problem is not limited to this year. It did not come this year, it came in 1974, 1984, 1987, so we should resolve it now. I hope 20 years from now as we look back to 1973, those people will be saying 1991 was the watershed year when in fact the problem was addressed by caring people, by considerate people who put all their efforts and all their talents into finding a solution. With that in mind, I want to commend all those people who served in that Joint Committee of Banking and Insurance and Labor, of both parties who brought good faith and conscientiousness to the negotiating table.

I think if you look at the Majority Report before you and the other report that will be discussed in

the future, you will find that there are many points of agreement, there are actually more points of agreement than there are of disagreement. However, where the Majority Report steps forwards on its own and does certain things that the other report does not do, I assure you, gives me great pride and I think every signer of that Majority Report great pride to participate in that report.

That Majority Report does one thing that I have never seen a Workers' Comp bill do, it reduces the cost of Workers' Comp premiums to the employers of this state, thereby increasing economic opportunity. It does not reduce the benefits to injured workers. In fact, it enhances those benefits by improving the machinery which is needed to service those benefits.

You are probably wondering to yourself, how can you do that? You are going to reduce costs and give out more benefits. Something is wrong here, they don't balance. If you understand one very basic point, and it is critical that you understand it, you will see how they do in fact balance. When you have a system that is so dilapidated, so creaky, so many rocks in its gears that it only gives back between 36 and 40 cents on the premium dollar to benefits, you can easily see that you can improve your benefits and reduce your costs but to do it, you must fix that creaky, cranky machine. The Majority Report does that. The Majority Report addresses a very basic problem. If you want to reduce costs, it has always been looked at — well, you reduce entrance into the system. That is one way of doing it. There is another way though. The best way to reduce costs is have no accidents. The Majority Report has (I am very proud to say) the strongest safety program ever proposed that I am aware of that mandates, mandates cost reduction to those employers who participate in that safety program. Those are true savings, to have no accident is the best way to reduce costs.

However, it also takes a step beyond that — once you do have that accident, if it happens regardless of your safety program, the next best way to save your costs is to get that person back to work as quickly as possible into a productive life. We have strengthened the rehabilitation portion. We have strengthened them beyond my fondest desires. A rehabed worker back to work is a producing member of our society and a producing member of our economy. To abolish rehabilitation or to continue a rehabilitation that does not work is to add costs to the system because that worker is disillusioned and bitter by not being able to participate in our working democracy and its economy but they also continue to draw benefits, so the rehabilitation is one of the clearest, quickest, simplest, and most humane ways to save costs in the system.

Another way to save costs in the system (which I absolutely reject) but I am sure you will hear it debated and discussed today is to limit entry into the system. Entry into the Workers' Comp system should be limited to those events, those occasions that are truly work-associated and work-related. But, to make that entry level so clear and so convincing (and is burden of proof) is to deny one-third of the injured workers their opportunity to enter the system. You might just as well take and abolish the whole entire Workers' Compensation package and go back to some form of socialism if you want. That is how we can in fact reduce the costs and enhance the delivery of the benefits.

Another thing I believe that we should not do

today, regardless of what point other people take, is to try to point blame, "Well, you didn't do this and you didn't do that." I think it is important that everybody realize that all members did participate in that discussion and on those purposes to attempt to complete those purposes.

Another thing that we discussed that will reduce costs is maximum medical improvement. In 1987, and I am going to be one of those unfortunate souls who will stand and tell you that I did vote for the 1987 reform package. Frankly, if I had it to do over again with the situations the way they existed then, I would vote for it over again. I have learned a few things, a few things I would have asked for, a few things I would have demanded more of, but we needed to keep and we wanted to give the insurance industry an opportunity to service this state and we did it.

But, in the process of doing that, there is one mistake I made, I will tell you, and that is going along with the concept of maximum medical improvement.

Why I think it is important that we discuss that briefly is that, if you are going to have a system that is going to control its cost, you must have predictability in the system. Maximum medical improvements, lies, lies against the face of predictability. If you say a doctor is, at some point, going to certify this person that they have reached a maximum medical improvement, it might be ten years, it might be one month, we don't know, then the insurer has to set aside reserves for the worst case scenario.

What we have done this time is we have taken that maximum medical improvement (which never worked in the first place) and discarded it. I think every member of those committees (somebody may correct me) and it is my recollection that every member of those joint committees of both parties agreed with that, and so getting rid of it, replaced it with a time factor. Now there is going to be debate in a few minutes here on which various time factor it should be. We found, through questioning, that the average for maximum medical improvement was 120 weeks. So, we substituted the predictability of 120 weeks and discarded the unpredictability of maximum medical improvement which allowed us to make some cost savings.

You will hear other points and for now, I think I would prefer to have other people speak and respond to that at some future time. Please keep these facts in mind, when you have a system that only delivers 36 to 40 percent of its premium dollar back into benefits, you certainly have a wonderful opportunity to save costs.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I am very proud to be one of the ones that signed the Majority Report. It was six months of hard work, cooperation right up until a couple of weeks ago between both parties.

One of the features that you just heard from Representative Ruhlin has to do with safety and rehab. I am very proud of our area. At Boise Cascade, we have Ron Gay who is the Rehab Coordinator and currently Boise Cascade has reached 1,200,000 hours without accident which shows that safety works. He also told me that we have reached 1,600,000 hours with only one lost time accident. A good safety program is very, very important.

I, too, along with Representative Ruhlin and

others, voted in 1987 for the reform package. However, I don't agree with him that if I had it to do over again I would still vote for it, I would not. One thing that we had in that reform package that I totally disagreed with at the time, but still voted for it, was fresh start. Fresh start is a guarantee to all insurance companies that they are not going to lose money and the residual market, which is the assigned risk pool, if they lose money, then they are going to assess the employers to make up for that loss so that the insurance companies are guaranteed a profit. Think about that.

I hope you will support the Majority Report.

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

Representative PLOURDE: Mr. Speaker, I would like to pose a few questions, please.

Before I pose my questions, I have to add that many of my constituents have said that the number one issue to them is Workers' Comp and it is the employees concern about getting benefits on time, expediting those benefits. So, that would be one of my questions because I am not really sure that that really does that when the language says "may be made" and "can continue to pay those benefits during the controvert times" because that seems to be the area of question.

The second area that my constituents are very concerned about is the small employer, the one who has 25 or less lives. What is he concerned about? The high cost that he has to pay which has a tremendous impact on his business. He questions why he has to pay such high premiums in the range of 30 to 50 percent, when only having one claim or less during that entire year. My question, is there something in this package that establishes a criteria for an employer to appeal that rate increase, to show that his claims are very small and his premiums are extremely high, and why he should be paying for other people's claims?

The third area which I am not really sure about is and my employees are extremely concerned about is getting back to work. I was told in 1987 through the provision of rehabilitation that that would allow them to get back to work. I would tell you that 95 percent of those people who are eligible to go back to work cannot find work, especially in today's economic times. So, if anyone could answer those question, is there a criteria established for a small business person to appeal his premium rate when he knows that his claims are very low or nil? And, do we really expedite the benefit pay-out for the employee?

The SPEAKER: Representative Plourde of Biddeford has posed a series of questions through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I would like to respond to the good Representative from Biddeford. He mentioned getting benefits on time — that has always been a major problem for the Workers' Comp system. Though it is not always associated with the laws that we pass but one of the things we have to recognize is that there is not much glitz in the Workers' Comp business, not much show, not much romance. Because of that, when they go down for funding before Appropriations, they quite often take a lower priority. People, frankly, do not want to discuss

workplace injuries, they would rather talk hunting and fishing and education or whatever, it takes a low priority in the glitz appeal market, if you will. Because of that, Workers' Comp historically has been underfunded. That is one of the points that have delayed payment of benefits.

Another point is, and I think this bill addresses this very nicely, that the insurance companies on the other hand, the longer they can hang on to the money before they pay it out, the more interest they collect. So, it is in their best interest to file a notice of controversy, to controvert everything that they can to delay, drag their feet, everything to slow down the paying out of money so that they can continue to collect interest on it.

We have, in the Majority Report, increased the penalties for not paying promptly and on time. We have taken early payment without prejudice. In other words, an insurance company or an employer can continue to pay before the situation itself is resolved without buying the claim. That is what is meant by early payment without prejudice.

The other thing we have done is changed the informal conference so there would (hopefully) not be as much opportunity or necessity for controverting at that case. In the past (for those of you who aren't familiar with it) when you go to an informal conference, it is an early stage way of trying to resolve things before you go to the formal hearing. What has been happening is that an insurance adjuster will come (he might have 300 cases) and says, "Well, I haven't had a chance to do all my homework on this case yet. I am down here for Bob, Bob had that case, I am sorry, I can't make any comments on that case." The Majority Report says (1) you had better cut your caseload; (2) you had better know what you are talking about when you go in there because you are expected and will have authority to make a decision and you had better make a decision; (3) you will notify the employer as his carrier or his representative that there was an informal conference, that the employer can sit in on that informal conference and if you go to that informal conference and some action isn't taken, you have to go back and tell that person who is paying the premiums that you didn't take any action. That is a fairly long answer to the good Representative from Biddeford but those are the four ways of speeding up the benefit payment process. I think that is a very important part of the Majority Report and I want him to fully understand all four of those ways. I think they will have a major effect on speeding up the benefit payments.

He also asked a question on rehabilitation — you have to remember that rehabilitation originally was started in 1985. It really didn't do an awful lot except it did establish the in-house over at the Boise-Cascade and some other places which has been extremely successful. There was a side agreement, verbal agreement if you will in the 1987 reform that called for a strengthening, a better way of processing rehabilitation within the State of Maine if we were to accept the principles of having to duration of limits. That was the tradeoff, if you will.

1988 was when the actual rehabilitation laws and the system we work under (actually it was 1989 before it was enacted) so it has only been there for a couple of years. One of my great disappointments, I served as Chair of that Subcommittee for the

Rehabilitation and everybody complemented us, and some other states went out and followed the law in Maine that we put in, but we left a couple of loopholes. We left it so that the insurance companies started contesting that somebody would make up a rehab plan and the insurance company would say, "Oh, that costs too much money" or "that's not suitable for this employee." They would contest it, and contest it and contest it.

Another thing that happened, we were supposed to have five employees (which was agreed to in 1987 reform) but a few months later, they were cut from the budget. "Sorry, deal's off, you don't have your five employees anymore." That is why rehabilitation was not working. The Majority package restores the needed staff to do the job right, it limits the opportunity to contest plans of rehabilitation, it sets a new area to go into for evaluations of suitability — with these new items in rehabilitation, we feel that we can offer a modernized, progressive and speeded up process of returning injured workers who are suitable back to work.

I hope that answer the Representative's questions in those two areas.

Representative Hastings of Fryeburg offered House Amendment "A" (H-694) and moved its adoption.

House Amendment "A" (H-694) was read by the Clerk.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: Those of us who have endured this frightfully warm afternoon and what is now becoming a cool House because the heat is out in the hall, you are probably sitting here, not necessarily to listen to me, but perhaps to listen to the breeze outside and get a cool one as it flows across your face.

Right now, I wish to present to you this amendment which in effect supersedes the Majority Report or the bill produced by the Majority Report. Let me give you a little background as to how it came to be, at least from my perspective.

As perhaps you know some of us sat on both the B & I Committee and Labor Committee and in that situation we watched the flow of the Workers' Comp changes that started out with an enormous number of bills and ultimately ended up with the request that we report out one bill from the two committees jointly. The two committees severed different aspects of the bill.

B & I had some very strenuous issues to deal with, which in fairness were just as difficult as those in Labor, but dealt more with stabilizing the system in long-term reaches, dealt probably more with how to more compassionately deal with the injured worker, it certainly dealt with more sensitive issues with the injured employee, not only how to help them get back to work, him or her, in a very short time but also to institute rehab in certain instances where it would be useful, almost immediately. As you now know, it is 120 days before it can ever be restarted on the rehab.

The issues, if you will, in B & I dealt with those types of sensitive concerns for injured employees. To a great degree, there is unanimity on either side of the aisle as to the bill, as to this amendment, on those areas. Brother Ruhlin mentions that and it is true.

There are, however, certain issues even there

where we looked at the insurers who are working in the system and came to unanimity, ways that we could get dividends out of the system to help employers and, therefore, lower rates. Also, to implement safety into the system and, with that safety, hopefully create more dividends to employers.

You have to understand the basic money issues evolved out of Labor, access to the system, what happens with the elimination MMI, how are you going to streamline the procedure to create a system that works rather than malfunctions as we have it now? What are you going to do with lump sums where people are lump summing just to get off the system because there is no other way to get out of the system today? What are you going to regarding the providers of care? Are you going to get those providers of care within your control? Are you going to control, not only the providers of health care, but are you going to provide lawyers and are you going to do it on both sides or are you only going to do it for the employee? When those issues started falling apart and, yes, I am sorry to say that the division was so great that on those basic cost items, we started to fall apart. No one was screaming and yelling at one another and all of the votes that we took up in B & I, although straw votes, if you will, — we were trying to manufacture a consensus among ourselves which, hopefully, if we could manufacture a consensus down in Labor, would become a bill. It was that simple we thought but when you get as many actors there are in this play, you will find the stage gets overcrowded.

Keep in mind who we are dealing with. There are the employees and the employers, they are the true people that are supposed to be working this system to the benefit of each, for the benefit of Maine. The insurers come in because the employers don't have that in their hip pocket to provide that coverage so the insurers work in lieu of the employers and what we found out have in effect divided employees and employers. Many of the changes that we tried to make and breach that gap, carve out the intermediary, put the two back together and hope that the system will work more smoothly and they will have long lasting stability to the system. But it is not going to save anybody a dollar in any way that I could see next year.

The competitive state fund, unfunded, which is what we talked about in B & I was there on the basis that we develop an overall consensus only and then it was not funded and that wasn't going to save any money because it was in the future. We in B & I, although not dealing with lump sum issues, said "Hey, this is such an abhorrent practice, it costs money for attorney fees, it costs money for the system itself and we best get that out of the system." It wasn't a B & I issue but it pervaded many of the issues that we did talk about and so we knew it had to go.

What now has developed starting last week, and I will tell you a catalyst to Maine was a small business in Fryeburg that came to my firm on Tuesday last week, it has 25 employees making cabinets, and said, "Look, we just found out that our Workers' Comp in Fryeburg is \$80,000. We moved here three years ago because we thought we could have a cheap plant, the workers were the same, we were in Conway, New Hampshire seven miles away — we can move back to Conway, New Hampshire, our plant is not any cheaper or any more expensive in Conway, but our comp rates will be \$30,000. "The labor force isn't going to

change, they are half in Conway, half in Fryeburg or thereabouts, that general area, but that is what is going on now in Maine.

I began to look at what we had to do to save rates. Without even looking at a perspective rate increase, and I would tell you that way before last week, the guesstimate was 15 percent, way before that there was some very simple items that we knew we had to deal with, we knew we had to deal with MMI, everyone agreed that that was horrendous so get it out of the system. At that point, how many weeks do you go? As you know, one version that you have before you today is 520 weeks and they told you how they got there. It doesn't save any money, everybody agrees. If you look at Mr. Tierney, the actuarialist's report, doesn't save any money so we went to 413 weeks and why? Simple. Mr. Ness, who is the rehab coordinator, told us that almost all of the people were ready for rehab or back to work in 90 days. He said almost everybody could go into rehab in 90 days, that's 13 weeks, people. If they are ready to go to rehab, they ought to be the starting point, if you will, for getting 400 weeks and that is where the 413 weeks came from.

Another big issue was the taking apart of the statewide job search. We all know that there are instances where people are out of work for long periods of time, not because they got hurt on the job, but because there is no work in their area. What do they do? Do they stay home forever or do they, after a certain period of time, go out and start looking further and further away until they can find a job? It seems only sensible to me that most of us won't sit in our house without a job, regardless of injury for more than a year. So we decided among ourselves that it would be fair to say that somebody is injured, after one year they look within their community for work and if they can't find a job, only then, would they go to a statewide job search. That is one of the changes and if it is loosened as is proposed in the other report, the difficult is it has to drive rates up. It has to. Any time you limit how far you have to look for a job, the costs go up because some people can't find a job within that area and some people will not choose to leave that area. That is a positive effect on the other report. Ours is negative and that means that the rates will go down.

There are other areas, particularly in attorney fees where we tried or I felt that we had to be even-handed, you have to, not only limit it to employees attorneys fees but you have to limit the insurers and the employers attorneys fees. That we have done. The same with the medical — we have limited, if you will, to some degree, not good health care, but the movement all around this system that we heard of as being breached by workers and employers, sending an employee from this doctor to that doctor to Boston and whatever, this employee shifting doctor after doctor after doctor. We finally said, look, what has got to be a level playing field here is to get somebody outside that is disinterested, review these people on both sides after they have gone to their doctor and said it makes sense that you should go look at another one or maybe you shouldn't, but you have to get somebody out of the system to make that review.

The so-called IME, Independent Medical Evaluator or Examiner, if you will, that person is a medical person overlooking other medical people. It is and

may include chiropractors as IME's, it is not limited in scope to pure homeopathic physicians. It is a methodology to control the costs of health care providers within the system, which right now, is running rampant.

Lastly, I am sure you are going to hear and you have heard it out in the halls, the issue of lump sums. Right now most of you probably know that, if you work for the first employer and you get hurt and after a period of time you decide to rather than get your money over a period of weeks and months and even years, you decide to get lumped out of this. You can get paid a large amount of money, I had a nephew that did this, I think he got \$140,000 out of the system, he still hunts with me every Fall, this was legitimate, the system allowed its payment, nothing illegal about this. Now he goes to the next employer and he gets hurts again and what happens, he aggravates the same injury that he had the first time so what happens? He gets paid for the full thing all over again. That is what the present system does. Can you afford that? Our system is so out-of-whack today, it is so wonderful for people who live off the system, be it providers or lawyers, that it is really run more for them if you take the number of dollars that is paid out in compensation. All those premium dollars paid — you know the employee gets less than 50 percent of those dollars paid? Less than 50 percent. Wonderful system, not for the employee, not for the employer.

Lastly and this comes down to a very philosophical point but what, if you will, has to be paid by industry and what do you and I pay for everybody in the State of Maine because it is a societal type of injury? What is going to be the access? Are we going to take care of every worker's health problem or are we going to limit our scope to those that are work-related injuries? This gets blurry and I don't pretend to you to be Solomon in this situation but I will tell you that the access to our system has so broadened by rule and by court interpretation that people who get hurt on the one job and then go out after recovering their comp on that injury and get hurt on a baseball game in a second job, a baseball game, they can collect again. It happens. Our system is out-of-whack. We are paying, not for just work-related injuries anymore, we are paying for a whole rash of broad injuries. So access has to be limited and that is a change that we tried to make. It may be too severe. I hear people yelling that it is too severe, I heard a Representative speak here today and say that it is too severe. If that is so, we can compromise on that because I don't believe, in fairness, that we will leave this chamber with sine die when we have either one of these particular Workers' Comp packages before us. I think there will be something that will be made and I hope that it will be structured to be very meaningful, to protect the injured worker with his work-related injury, to help the employer control costs and give stability so he will want to grow in Maine, not New Hampshire, not somewhere else, but in Maine. If we can't do that, we have failed our constituents. We do have a broken system, we do have one that is out-of-kilter, it has gone awry, and we have to develop something here that will work.

This amendment is an attempt to do that. I hope that you will consider it fairly, objectively, and understand that I, too, am trying to put before you a meaningful change to this system that will help

everybody.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: As I stated before, what I voted on was as far as I can go. Representing the working people, the small business, the medium-sized business, that is as far as I can go.

We put our best package forward. I have things in the package that I wanted and things I wanted to amend, there are things that I could be amending on the floor but I will not because I will not make it more liberal or more conservative. I am going with the package so, therefore, I move indefinite postponement of this amendment.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Let me preface my remarks by saying, and I mean this very sincerely, there is not a single member of the opposition party I respect more than Representative Hastings. As a matter of fact, I had always hoped that between us we could work out a compromise. I did hear him talking about his concerns. As a matter of fact, and I believe it is true, his genuine discomfort with the draconian cut that he has made in eligibility for the system but I am not going to belabor that.

I want to back up very quickly and talk to you just for a moment because I want to talk about the area that I am most familiar with, which is the Banking and Insurance side. The thing that Representative Hastings said, and he said he did not say it to belittle the work that was going on in Banking and Insurance and I believe that too, but I think we all being pulled into that usual trap when we start talking about Workers' Compensation, that there are no savings on the insurance side except in the future so let's not worry about that too much, let's talk about cuts. I am going to bring you back to reality for a minute because if you ignore that side, then you really are not looking at the full picture. I am not suggesting that Representative Hastings is ignoring it but I disagree with him on the fundamental importance of it.

I am going to take a few minutes and those of you who have heard me before can take a nap but I am going to repeat it again because it is very important. I shared with certain members of this body earlier today a letter or a speech that was given in February of this year. It was given by the Executive Director of the National Council of Self-insurers, lest you think it is a democratic spokesperson. He was speaking to employers, not the AFL-CIO. He was speaking to them about the problems in the insurance industry. I know that every single member of the Banking and Insurance Subcommittee B heard over and over again about the absolute failure of claims adjustment, the abdication of responsibility of a claims adjuster. As a matter of fact, this gentleman said, without legislation in the State of Illinois, he had heard about these compensation chasing lawyers who stayed outside of a factory and got every case. As a matter of fact, there were ten percent of the 450 people who worked at that plant had injuries with this particular lawyer. The guy said, what am I going to do? How do I fix this system, too much litigation. He didn't go to the friendly legislator but he said, with the employer or the boss of this plant, this is like

gorilla warfare, let me tell you how you fix it. You sit down with your employees and tell them you are all in this together, if I am spending all my money on comp, you are not going to get your raises. If you don't get back to work pretty soon and we are not productive, we are going out of business. You know what ultimately happened? He instituted weekly meetings. He met with the unions and what he said to his employers was, if you get really hurt, I am going to take care of it. He was so fair to his employees that, to get a lawyer to take their case, he had to be able to get three times as much out of a system. You know, a lot of lawyers couldn't do that so it is absolutely amazing what happens because the employer said, I am going to stop all this litigation, I am going to treat my employees so fair, so right, we won't need it.

That is a claims adjustment issue and in this speech what he also said is that we are coming to an end of the "good times" (and I know our Appropriations Committee can testify to that in the budget deliberations) but it is the same thing with soaring compensation premiums because people aren't going to put up with it anymore. That is why we are sitting here talking about what we can do about it. We can't afford it.

I want to share with you just three pertinent pieces of his speech and if you want a copy, I would be so very happy to share it with you because I believe educated people make the best votes and I want you to be very well educated on this topic. This has to do with after the claims adjustment piece which he talks about as an absolute failure in terms of dealing with claims. He talks about reserving practices, another cost item that B&I is responsible for.

There is already considerable incentive at high reserves, they are current income tax deductions for the insurance company. When you add the factor of self-protection or protecting the claim department from criticism, reserves are set higher and higher. In fact, he even tells the story in his own business where a claims guy who was getting ready to retire didn't want a mark against his record and he simply paid out a claim simply to keep from having to deal with it. So, if your reserves are big enough and you pay the claims, it all washes out, so you go in for your rate increase and ask for more and more money.

It seems to me that the economic incentive in a retro policy and perhaps in the entire structure of the insurance industry is just the reverse of what it ought to be, a responsibility of the B&I Committee. The more an insurance company pays out, the more dollars that it makes for itself, particularly if it can economize in the claims department in legal defense costs. With that sort of economizing, prices soar. So those were our responsibilities.

The positive things in the Majority Report package that had to do with savings under the insurance rates, and we have talked about that, but I think it is important that you listen again — all those employers that we represent who are stuck in this residual market, the "pool of last resort", if they will simply institute a "safety pays" program, they can realize next year a 15 percent decrease in premiums. Please write that down.

Like Representative Hastings suggested and he didn't have a chance to mention it, this isn't the Governor's bill, the Majority bill, it is a Minority bill.

As you know, when you have an accident on the job, and accidents happen no matter how safe you are, the current system says you are going to take big hits for three years out. We have changed that, we front-loaded it, all of us did, because we wanted to say, if you have had that accident, you can work it off your claims factor, your modification, much, much quicker. The sooner you get safer, the sooner you can get that bad accident off your record.

We have used the rates to reward safe employers and to penalize them. As a matter of fact, both bills I believe say if you are unsafe and you had this horrible experience rating, you are going to have to go to safety school if you don't get penalized. We have used these rates for very important things and I think that is very important to do.

I am not going to be the expert on Subcommittee A because I wasn't privy to all your discussions but let's not over-simplify.

I talked with the representative from the Bureau of Insurance yesterday and we were looking at numbers and we were arguing about numbers and I think Representative Hastings just joined the issues. He really does go to the heart of what this debate is about. I can assure you that it always easier to be arbitrary, it is always easier to be arbitrary and to cut people off the system. I don't think many members of the Minority Party are comfortable with this draconian cut you have made on people who are really injured at work.

Members of both parties when we were working together made a real movement forward in terms of compensability and I won't go into that debate again but you are not going to get hurt at the softball game that was referred to and claim that was a compensable injury. That simply isn't true now. It may have been true in the past but it certainly isn't true now.

The lump sum issue — we all have anecdotal stories but let me tell you another one. The Majority Report says that lumps must be structured because, frankly, I am concerned about an employee who gets this big cache of money and it is gone in six months because it was not structured and they are still disabled and who pays for them? You do. It is very inhumane. It is wrong, so we have suggested strengthening up that process but if you would limit all lump sums to just those that were \$5,000 or less, how does that play for death benefits of a widow who is gainfully employed, quite capable of supporting herself who gets a lump sum death benefit for her husband? Why should she not have that to close her case out of the system? She is 60 years old — why does it not have to be lumped? Frankly, insurers really puzzle me, they like certainty. They want an exact number of this and an exact number of that — it seems to me if you could lump these things that are responsible, you would give them a whole lot of certainty. It seems to me that you can't have that both ways. I think that is very important.

I am also very troubled about this very independent medical examiner czar. I think it is very important to have medical peer review. We agreed to that and that is in our Majority Report, that Dr. Barnard, I think that was his name or Barrett, maybe you could help me, those of you are very familiar with the Governor's Task Force, suggested it was pretty far step to go to give that kind of decision making power to the medical

community because we are also talking about economic loss, the inability to support yourself and the inability to support your family. He saw the savings as almost nil and he also saw that the benefits to be gained were so small and the risk to quality to health care were tremendous. Again, easier to be arbitrary? If I understand the report before us that Representative Hastings is espousing, limits all visits to anybody to twelve without permission from the czar, whether it is a chiropractor, a brain surgeon, or a general practitioner. Clear, simple, certainty — but is that sensible? Doesn't that really take more time to have to trot down the czar to get permission to go get one more doctor's appointment if medically it is indicated? That doesn't make sense to me.

Having said all those things, I would hope that those people who are supporting this amendment do not belittle the importance of dealing with the insurance question. That is exactly why we went forward with trying to do something with the state fund because one of the biggest things broken in this system is the residual market and I don't see what the Minority Report attempts to do about the residual market.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: Representative Mitchell refers to a debate here today on Workers' Compensation and I was beginning to become concerned that, where we had nine speakers on one side and only one on the other, that we were having a debate at all so I am happy now to join the debate.

I rise to urge you to vote against the pending motion of indefinite postponement so we can go on and adopt House Amendment "A" which is much needed to make a meaningful reform of our Workers' Compensation system. Others have and will discuss the competing details of the proposal, I seek to discuss the broader issue, that is the issue that brings Workers' Compensation to the forefront of the legislative debate this session, that is the issue of jobs for Maine people.

A short time ago, this House debated a bill which attempted to provide unemployment compensation to workers locked out of their factory during a labor dispute. Well, fellow Representatives, I submit that Maine state government is locked out from permanent employment in Maine many more workers than any business or industry. It is time today to stop the virulent anti-business attitude that has characterized this legislature for too long. It is time that we stop strangling those, who through their business enterprises, would provide hope, dignity and opportunity to Maine citizens. It is time to cut the noose from the necks from Maine's employers and fix our Workers' Compensation system.

More than 13 percent of the people I represent in southern Oxford County have been locked out of their jobs and locked out of their futures, not by business management, but by the policies of their state government. It is difficult to say which bill or which law will drive business from Maine or will keep a business from entering Maine or expanding within Maine. With our exorbitantly, costly and ineffective Workers' Compensation system, which is two and half times higher than the national average or excessive regulation from state agencies, such as DEP, or our high levels of corporate or personal income tax — which of these many reasons is keeping jobs away from

Maine people? Which of these reasons is sending our talented young people away from home to find opportunity elsewhere? Which of these reasons is ensuring low aspirations or an unpromising subsistence to those who remain?

For those who are paying the corporate taxes, filling out the state forms, dealing with the DEP and paying the compensation premiums tell us clearly that their greatest concern is Workers' Compensation.

A couple of weekends ago, my wife and I had an occasion to walk around Bryant Pond, a little village served in this body by Representative Luther in the middle of Oxford County, a town where my mother grew up. We walked that sunny day by the vacant and deteriorating buildings of the former Stowell Wood Products Mill that used to employ a large number of the people of that town. I remember as a kid spending a lazy summer afternoon on the shores across the lake and listening the whistle blow periodically signaling lunchtime, breaktime, or the end of the working day. I knew that my uncle and a couple of cousins would be heading out with that final whistle, glad to be through another demanding day to go home and enjoy the remaining daylight and enjoy what good life Maine offers its working men and women. Some liked their jobs, some didn't, but they were proud to be working. Well, the whistle blows no more at the Stowell Mill. Bryant Pond, like so many other villages in Maine, has lost its mills with their day long vibrant humming that signaled security and promise and seemed to buoy the spirits of the townspeople. My wife and I then walked through the small Lake Christopher cemetery on the shore of the lake where many of my ancestors lie buried and I thought of those who lived and struggled in Bryant Pond and many other Maine villages their whole lives. I was reminded of the eloquent poem by Thomas Gray, a eulogy written in a country churchyard, a pre-industrial age work but an everlasting tribute to the unsung heroes of our society, our working men and women. Gray wrote, "Far from the madding crowds of noble strife, their sober wishes never learned to stray along the cool, sequestered veil of life, they kept the noiseless tenor of their way."

It is the working people that have made Maine the special place it is. It is their sober wishes and noiseless tenor that has defined Maine's character.

Fellow Representatives, it is time to reform Workers' Compensation, to bring it back to the basics and save jobs and opportunities for our citizens.

The Minority Report, House Amendment "A", makes real and substantial savings. It improves our compensation system by reclarifying what compensation is and who should get it.

The Majority Report will not enact real reform, not immediately, it will not save enough costs to avert the crisis that confronts our state today.

I urge you to think of the needs and the wishes of our working people as I have thought of them when you cast your vote. The fate and future of Maine workers is in our hands.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, I would like to pose a question to Representative Hastings.

Does this bill or this amendment abolish the Workers' Compensation Commission and if so, what happens to the current system and the employees that are there?

The SPEAKER: The Representative from Rumford,

Representative Erwin, has posed a question through the Chair to Representative Hastings of Fryeburg who may respond if he so desires.

The Chair recognizes that Representative.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: The Workers' Compensation Commission is a separate division, if you will, or agency of the state and would be changed. It would continue with its commissioners to carry out the litigation, if you will, of 15,000 backlogged cases under our strangled system. It would return immediately the employee assistance (most of them, I should say) as is necessary again and the rehab people immediately to the Department of Labor where the rehab people originally were.

There are two reasons for that, one, you may have some federal money for rehab and DOL, you have absolutely none under the Workers' Compensation.

Secondly, the employees assistance would work in the DOL eventually as well as the Commissioners would be transferred over the DOL for a couple of major reasons. One is, if you look at the system as it has been operated and grown over the last decade or two, we have had difficulty with that system. We have seen growth of the accessibility without change of definition. That has become one of our major concerns in this state, that we have picked up societal injuries and put them into industry or Workers' Compensation expense. That is not to say that we didn't intentionally do this, and maybe that is where we are coming from, but it is not the intent of myself at least to so strangle the cost of industry, through the expense of Workers' Comp, that it drives them away. That I find is beginning to happen.

So, there is a transition that moves this group to the Department of Labor, it would do that over a period of time as the need arises depending upon caseloads. So, yes and no to your question — there is continued a group of commissioners who will continue to hear all the 15,000 cases, there will be transition over so that when the new procedure, which applies to all injuries after the effective date of the act, that new procedure, hopefully, which I think both sides of the aisle agree to, will expedite the hearing process, reduce the number of notices of controversy and create a lesser, and hopefully no backlog of cases other than just the immediate flow of petitions that go along, so that is the way that I envision that it work and that is what this amendment does do.

Representative Tracy of Rome requested a roll call on indefinite postponement of House Amendment "A."

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The Representative from Norway gave you a very colorful speech, a very poetic speech and a very picturesque speech. This is not the time for rhetoric.

As a Representative of the city of Waterville and a Representative, prior to being elected to this body, being involved in this very difficult issue, I have been involved in what we have called "reform" in 1983, 1985, in 1987 and now here we are again in 1991. You see, as much as we try to reform the system, in good faith each of us I believe, there is one obstacle that we cannot control and that obstacle, to my mind, is the insurance industry, not

your good friend the agent, but the industry itself. We have tried various methods of reform and to say that we now have to look at the policies of state government and that we must blame the policies of our state government for ignoring this issue, I take personal offense to and professional offense to, because in 1987 we gathered here and we talked about reducing the rates or the benefits to employees, to injured workers, by approximately 40 percent. We were told that we had to meet a particular number so that insurance carriers would provide insurance to the employers of this state. In my mind, they were guilty of collusion and our anti-trust laws in this state and in this country exempt them. So, I will still call it collusion because they would have to prove to me that they did not gather together and say that this is what they would do.

In the period of time since 1987, the insurance rates have been set by our regulator and our adjudicator, the one and same person, by 65 percent to 70 percent, those rates have been increased. They have been increased upon the request of the insurers.

At the same time when we "reformed" Workers' Compensation, we gave instructions to the Commissioner and to the Superintendent to expand the voluntary market and that has not happened. Your employers, those small employers, rates are doubled what they should be because they are not in the voluntary market if they have a safe work place. So, when you talk about the employers who perhaps have left this state or employers who are paying phenomenal rates, I think you need to ask the second question — what is your experience? How many accidents have you had? What have you done about modifying your worksite? What really is happening there?

In the Majority Report there are credits for safe work places, there are enhancements for safe work places and, for those persons and small employers in particular who haven't given a great deal of thought to running a safe work place and in fact preventing some of these accidents from occurring, then upon Representative Hastings suggesting when I was in the committee, I heard about a safety school and there is a safety school where employers will receive instructions on how to improve their worksite.

Yes, we need to reform the system, we have to expedite it in order not to have the delays, but there is another thing that I must say and probably I am the only one in this chamber who feels this way but when you talk about attorneys fees and you talk about doctors fees, perhaps I am naive, but I believe professional people (such as attorneys) represent their clients to the best of their ability. I believe that physicians take care of their patients to the best of their ability — yes, I am sure there are abuses in the system, I know of them, I have heard of them, but in general, I believe that that is so.

Another issue from the 1987 reform — we asked when we were discussing attorney fees because in 1985 we reduced access to attorneys for the injured worker and I was on the Labor Committee and I was one who voted to do that. I did that in fairness to the small employer but, at that time, we asked, and in 1987 we asked again, to have information about how much our insurers are paying their in-house attorneys, how much of that cost the system? What about the delays, the artificial delays within the system that occur now when, in fact, the medical

reports are not available? The Majority Report addresses that issue and we expect those medical reports to be there. There are artificial delays and those things do occur but generally, if that attorney that is representing the insurer who is representing the attorney, is the person who is responsible for that delay — shame on him, shame on her! That does slow the system so we have addressed this expediting of medical reports and medical records so I urge you to vote for the Majority Report but also to, with all due respect, indefinitely postpone House Amendment "A."

In the Majority Report, how are we going to fix this adversarial system? And it is an adversarial system. We have, in all cases, and again something that I was not too much in favor of but have come down on that side, an edification to the employer an involvement by the employer in the informal conference. It was probably modified to my liking because it added "a representative." What this report does is enhance the communication between the injured worker and the employer. I don't know of any employer in this state who does not care about his or her injured worker but has always trusted that his insurance carrier would, in fact, take care of the issue and that has not happened. I can't lay all the blame on this mess, this very broken system, on the policies of this state. I would say that the people in Hartford, the people in Bridgeport, the people in New York, should share that blame with us.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Labor Committee and a member of the Minority Party, I would like to share with you some thoughts.

First of all, I agree with the Representative from Vassalboro that the basic problem we have is getting the employer and the employee back together. They have wandered apart, there has been adversarial relationships developed that have prospered by keeping them apart and I believe Labor, as in Banking and Insurance, that has been the focus.

I also will be very candid with you and indicate that I was not the first one to embrace the Minority Report. However, the thing that bothers me and should bother you are some hard, cold numbers that we have to live with. Maine's per capita compensation costs is \$257 per person. The national average is \$100 per person. The second highest state is \$200 per person and that is New York so we are \$57 per person, per capita higher than the second highest state. We can't afford that luxury. The result is that we are losing jobs all over the place.

We have a company in Dexter that manufactures shoes that also happens to have a factory in Puerto Rico and has seen work diverted there. We have a factory in Corinna that is closing down or has diverted jobs. Augusta has lost 120 jobs; Gardiner, 30 and Richmond, 75.

I have in front of me factories that have closed and the reason in part, if not total, is the Workers' Compensation problem that we have. I think I want to put in the Record — National Seafood Products, Rockland; M&T Enterprise, Farmington; Ethan Allen, Burnham; Newton & Tebbets, Bethel; VanBaalén Pacific, Rockland — how many more factories can we allow to close? How many more people can we have lose jobs? This isn't helping labor, we are in a recession, we have got to come up with some solutions.

The Minority bill has been priced out at a reduction of 41.6 percent. The increase that is to take place, unless there is a change, is 14 percent, that's a given. In fact, it is supposed to go retroactively in effect on July 1, 1991. Superintendent Edwards has made that decision, subject to what changes we make.

The Majority package has been priced out by their own independent actuary to have a savings of 3 percent without considering the statewide work search in the state fund. If we use the calculation on the cost of abolishing the statewide work search and have the state fund, then the Majority Report is going to show us that it is going to increase the cost of comp 13 percent. We can't afford that.

On top of this, we have a 14 percent increase that is hanging out there. If we figure the 14 percent increase on the Minority bill as amended, that calculates out a decrease in 33.5 percent in comp rates if we adopt, as is, the Minority bill as amended.

I ask you, if we are going to cut comp rates, shouldn't be cut 35 percent? Then I would say if we all agree that we have to cut it 35 percent to be competitive, to not lose further jobs, to not lose further business, then I challenge you to say, okay Majority Party, you come out with a way of reducing comp 35 percent. I am willing to listen, I am not married to any particular plan. As I said, I am not in love with the Minority position but we have got to solve the problem, that is why we are here, that is the most pressing problem.

There were some things that have been brought out in debate that I would like to address individually. One is Amendment "C" to the bill itself that proposes to freeze the rates until January 1, 1992. I would urge you that you may well be developing an unconstitutional system in telling insurance companies that they have got to stay in the state and telling them that they are not going to get paid. To just do this without checking into the constitutionality of it and leave the state in another disaster without protection is a rash move.

The second point is, don't assume that the insurance companies solely rule what the rates are going to be in the State of Maine. That is not true. We have self-insurers too, the large companies. We also have a voluntary market. Those are people who go out on their own and get insurance based upon getting the best bid. Unfortunately, that is only 8 to 10 percent of the market. Then we have all the other people and, even with all the other people, they all don't pay the same rate. There is a breakdown within that group as to the very industries and they have different rates within it.

As you can see, our comp system is extremely complicated. I don't pretend to fully understand it, I only partially understand it, but I do know that we have got to come up with a bill that will cut comp costs approximately one-third so that Maine is no longer out of line with the rest of the country. I challenge you to do so.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I want everybody in this chamber to please not lay all the economic woes that are presently happening within this state upon Workers' Comp. Workers' Comp is terrible enough by itself. Do not think that every

business that has closed is closed because of Workers' Comp. It does limit the job opportunities, job potential for the people of this state. There have been businesses go out of business because of Workers' Comp but let's look at the problem for what it is and let's not lay all the closures and all the economic woes upon Workers' Comp. By the way, Maine has the envious position, I noticed in this week's Newsweek, of being number three in the nation in economic woes so we are right near the top, but let's not lay it all on Workers' Comp. Let's look at Workers' Comp for what the problems are and address those problems today.

Also one other thing I would caution you about is, let's not play "my actuary says" and "your actuary says" because that is not going to accomplish anything. Actuaries give the best case and the worst case scenario and we, as policymakers, are supposed to use our good judgment to come to some conclusions. I can assure you where my actuary says this, and I know that your actuary disagrees with him, but my actuary is a neutral person, your actuary is not a neutral person. Let's not get into that game.

The Democratic Majority package has two nationally known, respected actuaries who put it somewhere between 20 and 30 percent of savings and in the best case scenario as high as 40 percent. Then we have actuaries who say, "Wait a minute, that doesn't count." The question we should be asking ourselves and the question I want answered before I leave here is not what the actuary said but — and I asked this question directly to the Superintendent of Insurance — when we instituted in 1987 a statewide job search to limit this graduation from permanent-partial impairment people into the permanent-total, how many points were we given to that reduction? Mr. Superintendent looked me in the eye in the presence of all the committee members who were there and said, "We didn't give any points because we couldn't rate it, we had no prior experience to rate it on." "Oh fine, Mr. Superintendent. In 1989, how many points did you give to the statewide search for requiring our injured workers to travel the length of this state to get a job, if it were available? There should be some savings. What were the savings?" "I did not see fit, Representative Ruhlin, to give any savings because we did not yet have enough experience to give it a rating."

Now the Majority Report says, well, if we are not getting points or credits for a statewide job search, then why should we go on with the statewide job search? Let's do something a little more reasonable. You know statewide in Rhode Island is one thing; statewide in Maine, from Fort Kent to Kittery, is quite a bit different. Let's do something reasonable, require a reasonable commuting distance, say 100 miles which I think is a little more than reasonable, but the majority rules in the majority party, so we went along with that. Then all of a sudden, we didn't get any credit for going statewide but now when we go to a hundred miles, we lose points. Does that make sense? You can't always listen to what the actuary tell you, sometimes you have to use your own common sense. You can't always go by what my actuary says and what his actuary says.

We are the policymakers of this state, let us look at the facts, let us do our own counting, let us use our own judgment to make the policies of this

state.

The other point that I really wanted to respond to was when we talked about one of the best ways to cut costs and save money in the system is getting a person (legitimately) back to work and producing in the economy again. One of the ways that you do that, for those of you who aren't familiar with the system, is you do what they call an evaluation of suitability. Presently, evaluation of suitability is done by private industry. The Majority Report says, let's keep in it private industry but let's not have the people who are providing the rehabilitation plan be the same as the one who does the evaluation of suitability. Let's separate them but keep it in private industry. That sounds like a good Republican plan to me. Things are going a little backwards because now the Democrats have come out with a Republican plan and the Republicans come back and say, no, no, no, let's let government do it. That report that we are considering the indefinite postponement of says, no, no, let's make government bigger, let's have the evaluation of suitability be done by the state government. Then when they have a furlough day, the injured worker may not be able to in for his evaluation of suitability, that is what indefinitely postponing House Amendment "A" proposes to do. You tell me, if you increase the cost of government by doing the evaluation of suitability, how you cut costs to the system? Again, use our own common sense, don't count on what the actuaries tell you, look at it. If you increase the size of government, you increase the costs to the system, plain and simple.

I ask you to keep those things in mind when you come to vote on the indefinite postponement of this particular amendment.

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

Representative ANTHONY: Mr. Speaker, I would like to pose a question through the Chair to the Representative from Fryeburg, Representative Hastings.

As I read the definition of "entitlement", the injury must arise out of and in the course of employment and be the immediate result of an acute work-related event. My question is, one of my employees in the past developed Carpal Tunnel Syndrome on account of excessive typing and I am trying to understand, as it turned out in my case, the employee did not ever have to go to Workers' Comp, but if her condition had worsened and she had had to apply for Workers' Comp, is there any way that that employee could have qualified for Workers' Comp under that sort of definition?

The SPEAKER: The Representative from South Portland, Representative Anthony, has posed a question through the Chair to the Representative from Fryeburg, Representative Hastings, who may respond if he so desires.

The Chair recognizes that Representative.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good Representative from South Portland, Representative Anthony, I, too, have that concern because it is clearly my understanding and intent that that type of repetitive motion injury (what is sometimes called Carpal Tunnel Syndrome) should be covered by this definition. I am told by lawyers who are more professed than I in this particular area of the law that, indeed, by the arguments that they would

present, it would be covered. That was clearly my intent and it is clearly my understanding that it is so covered and it would not eliminate that type of injury because it would work-related, it would by its proof be dictated to a specific time or event, even though that which leads up to the injury itself would have occurred by many repetitive motions, so I am told.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: In deference to the good Representative from Fryeburg, I can't see any possible way that Carpal Tunnel Syndrome would be covered under this definition. There is no acute work-related event that occurs in that. Furthermore, by this House Amendment "A", the proof has to be, not done by a preponderance, but rather by clear and convincing evidence. As the good Representative knows, that is an extreme burden to have to overcome. The notion that somebody can show that Carpal Tunnel Syndrome, which I am sure the good Representative recognizes has become a major, major work-related injury in this state for women in clerical industries, in the shoe industry and in a whole variety of other industries, particularly dealing with modern technology and computers and all of that, I can't imagine how that could be covered or how anybody could show by clear and convincing evidence that the injury is immediate result of an acute work-related event.

I really believe that the intent may be well on the good Representative's part, but unfortunately the words belie the intent and I believe that that is a serious, serious flaw in House Amendment "A."

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

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: In answer again to the good Representative Anthony, first of all as he well knows, "clear and convincing" does not go to whether or not the preponderance of the evidence, and I am not going to get into a legal argument, but I just want to let you know that "clear and convincing" goes to the weight of the evidence itself, it does not go to the preponderance, it is the quality I should say, not weight, quality of the evidence, not the preponderance, not the weight.

Secondly, as to the Carpal Tunnel Syndrome issue, it deals with the event, the work-related event, that it be an acute work-related event. It is my understanding, and I have had other people more learned than I review this, that clearly that type of injury would be compensable under this bill and I do not think the fact that it says "clear and convincing" changes the preponderance measure at all. It simply goes to quality of evidence.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask the previous speaker if we were to state that the employer has to prove clear and convincingly that the accident did not happen at the employ of the employee, would he feel that that was fair?

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

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

on the committee who may answer this question of clarification for me. It is my understanding that in House Amendment "A" services of a chiropractor are limited?

The SPEAKER: The Representative from Gorham, Representative Larrivee, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good Representative from Gorham, that is incorrect. Chiropractors and doctors are peer reviewed and covered by treatment review. If you look at my amendment, if you will, you will see that both licensed and unlicensed people can give 12 visits or treatments, if you will, to an injured worker other than if it is an emergency or in a hospital. You do that 12 times during the first 30 days. After that, both types of doctors have to be reviewed by IME, an independent medical examiner, to determine if the treatment should continue or should it be changed, whatever the case may be. It is case management of, not only chiropractors but also physicians.

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

Representative LARRIVEE: Mr. Speaker, Ladies and Gentlemen of the House: I guess my reading on Page 13 in the next paragraph which indicates that besides the review of the IME, written authorization of a licensed physician must be provided or that service is not compensable. It would be my reading and understanding of that, and if I am incorrect, I would be willing to hear the evidence, but I would like to be sure that this type of service is at times a less costly alternative, is still going to be available to injured workers?

The SPEAKER: The Representative from Gorham, Representative Larrivee, has posed an additional question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: I believe you are looking at the last underlined paragraph on Page 13 of the amendment — that provision says that if one is not a licensed physician, and that would be chiropractors, it would be physical therapists, it would be other rehabilitation people who are in the system now performing services, that if the service continues beyond 30 days, there has to be a review of that and an approval by IME for cost control to determine that it is appropriate. It is part of what we are trying to do in cost controlling the health providers in this whole system. It does not stop it. In fact, if the employee is concerned that it will not be continued, then the employee himself or herself can ask for IME review at the cost of the employer or the insurer and they will review that and it may or may not be continued based on what is appropriate.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: In regard to the last comment, I would suggest that it would appear that that could have the effect of adding costs to the system since I do know of situations where a chiropractor is effective but not within the 30 day

period. In order to continue that chiropractic care, you would have to go and get an additional medical involvement. I am not saying that the employee is going to pay but the system is clearly going to have to bear the burden of an additional medical evaluation. It seems to me to be unnecessary if, in fact, the chiropractor is rendering care and that care is in fact leading to improvement, which may take more than 30 days, so again I would suggest that in this particular area, we have actually added costs unnecessarily.

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

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

This question is to Representative Hastings. This lump sum payment of \$5,000 bothers me some. I would like to know if a person should lose an arm or a leg or an eye, does he get \$5,000 and is that the whole story?

The SPEAKER: The Representative from Waterboro, Representative Lord, has posed a question through the Chair to Representative Hastings of Fryeburg who may respond if he so desires.

The Chair recognizes that Representative.

Representative HASTINGS: The impairment benefits are not lump sum benefits. Lump sum is when you take the total claim and you discount it down realizing that there may be a payment for (currently at least) the term of MMI, whatever length that is, plus 400 weeks, you take that and compact it down. This new bill does not change the impairment benefit in the sense that, if I lost an arm, that payment on that lost arm, would still be made.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: To answer Representative Lord's question about the lump sum and also Representative Mitchell raised a question about lump sums — if a person dies as a result of an industrial accident and their spouse is employed and not a dependent, and we talk about, gee, they are going to lose the value of their lump sum, I hate to discourage you but the total death benefit under Workers' Comp law is only \$7,000. Whether we have a lump sum or a total death benefit, it really doesn't impact at all in a death situation.

In regard to the reasoning behind the abolition of the lump sum, you have heard a lot about it, and I would like to give you one additional reason. It is an unfortunate situation that we have to talk about but it symbolizes a sickness of our system. If a person is an injured person in a comp injury and they are entitled to compensation, if for some reason the insurance company isn't paying them, they don't get any pay until they get a hearing. That hearing could take a year or two years. During that time, they will be unable to make their mortgage payments, they would be unable to make their medical payments and they are destitute. At that time, the insurance company will dangle in front of them before the hearing, knowing that they can't wait any longer, a sum of money. The person is destitute, they grab the sum of money because they have got to pay off the creditors, they have got to keep going, so they grab that sum of money and the result is, they have been starved into a settlement. We can't let that happen, we can't let them get starved into a settlement, we have got to have a process to provide expedited

hearings. Both the Majority and the Minority bill do that. We are trying to solve that problem.

Additionally, what we have got to do is to make sure that we don't let people get sums of money when they, in fact, are going to need compensation the rest of their lives.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Mr. Speaker, Ladies and Gentlemen of the House: I have in my hand a document called "Summary of Estimated Savings" comparing independent actuary and insurance bureau estimates. I don't know where it came from but it does purport to give the cost savings that the Tillinghast Company, which I understand is an independent actuary not hired by either the Majority or the Minority, and which both parties have submitted data. I understand that they have provided two reports, the latest one just a couple of days ago. This summary of Estimated Savings goes through a whole bunch of items, I don't know how many people have this, but there are two or three items that I have a question about and I would like to pose those through the Chair.

The Tillinghast Report does give a high, mid and low estimate of the savings that would be calculated under the Majority bill and comes up with a total of 30.9 percent savings. It does include three items for which I would like to ask questions for anybody who wishes to answer.

The first question concerns the purported savings listed on this sheet of paper for the institution of a state fund. I have read the Tillinghast Report and I don't recall that Tillinghast even addresses what the expenses or the savings might be in a state fund, although on this sheet it is listed as being 15 percent. That is 15 of the 30 percent reported savings.

The second item on this document is a savings of 7.5 percent on the basis of safety credits. I know that in the bill there is a provision that an employer can receive up to a 15 percent reduction on the basis of a good safety record and perhaps that is why we have 7.5 percent here because perhaps half of the employers would get this 15 percent discount. It seems to me that, if half the employers get a 15 percent discount, it just means that the other employers who are not so safe are going to be loaded up with the extra premium, in other words, a wash.

The third question I have concerns the item regarding fringe benefits, which relates to the Ashby case. This document says that there is going to be a savings of 1.5 percent by virtue of the fact that the Ashby case would be overturned in the Majority Report. However, my understanding is that the effect of the Ashby case is not reflected in the current rates because it was decided recently that it has a limited impact so far and so, eliminating Ashby is not going to have any effect on the current rates and, therefore, it would not have any current savings, although not having it, might have some prospective effect.

The total amount of these three items is 24 percent of the 30 percent, which is claimed to be saved by the Majority bill, but I should note that Tillinghast has not addressed another factor which we know is going to increase costs, that is, the job search issue where the actuaries at the Bureau of Insurance say will increase costs about 12 percent.

I would like to know who made this document, whether they stand behind it, and whether or not the

three items that I just mentioned really should be included for purposes of savings in calculating the savings in the Majority Report?

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

The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I will try to respond to those questions one at a time.

When you get into a state fund, you first of all have to consider that 91 percent of businesses now are in the residual and involuntary assigned withdrawal are the same thing. So when I say residual, please feel free to substitute words back and forth. Ninety-one percent of the employers of the State of Maine are in a fund that they can have no control over the rates that they are going to pay.

By the way, that money goes from the State of Maine to New York and sets in what they call a residual pool. That residual pool is not spent in Maine, does not earn interest in Maine, it withdraws from Maine, (at the present time I think) somewhere around \$125 million (I am not quite sure but somewhere around there) withdrawn from our economy.

By bringing that money back in to a Maine Employers Mutual Insurance Fund, that brings that money back into the state to help the economy of the state and that would happen, unfortunately, at some future time. That is what we refer to when we say preventive. However, since the Ashby/Rusk decision which said (it is a very narrow decision but there are other decisions pending based upon that as law) that fringe benefits are apart on certain narrow areas of negotiated work packages and the insurance companies are poised now to charge that premium on those fringe benefits. If you are an employer — to give you an example, 28 percent of a payroll goes to fringe benefits. That means the insurance companies are going to come to me and say, "Mr. employer, we are not only going to charge you your premiums for Workers' Comp on the salaries, we are now going to calculate into those salaries all the fringe benefits because of this decision." Even though the decision itself was narrow in its scope, they are poised to do that. They will do it and it will affect us and affect us immediately. Recognizing that there is going to be a freeze and that this package is going to take effect on January 1st, that savings will be there, I assure you it will be there, and I assure you it is legitimate.

The good Representative, as I understood it, asked about safety credits and credits in the program and why they got 7.5 percent? The way that you reduce the cost of Workers' Comp, the most effective way is to have no accidents at all. So, you are doing two things here, you are mandating to those people who are in the assigned risk pool to get the immediate benefits, those people who institute that safety program, put it in place, and go through with it, and are certified with it, will get a mandated 15 percent reduction. However, the others, because you are lowering the accident rate, those people who also participate in that process because they are lowering their accident rate and keeping the mod right down, will receive benefits. Is it truly 7.5? Is it 8, is it 6? I don't know, that is one actuaries figures. I told you one of the things I am not going to do

here today is, (I promised myself when I came into this room) I am not going to play dueling actuaries with anybody.

I knew the question was well-intended, well-placed and I did want to respond to it. He says 7.5 is the mid-point, it may be 6 and it may be 8. I think he said zero at a low point, I am not sure. However, that is what would kick in those safety programs, would kick in some benefit savings and I think 7.5 is probably a reasonable figure.

The good Representative asked about job search. I want to go back again and say, I don't see how an actuary could sit there and add 12 points to the majority package, when they never gave any credit for a statewide job search to start with, but again, we are getting into dueling actuaries and I am not going to do it. The response to that is, I do not see any reason to charge the Majority package 12 percent by going to 100 mile qualification for job search anymore than we made any credits in going statewide in 1987 through to 1991.

I hope I have properly interpreted the good Representatives questions and I have tried to answer them directly.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLTON: Mr. Speaker, Men and Women of the House: Thank you Representative Ruhlin.

I still have some questions and comments about these figures. First of all, my understanding is that this is not a case of dueling actuaries, this is a case where both parties have submitted figures to this very well-respected firm to ask about what the effect is going to be of the Majority bill. Tillinghast didn't say anything about the effect of changes going to a state fund although this paper claims that it did.

I also recall the first thing that the good Representative from Vassalboro said when we started this debate which was, that going to a state fund or not going to a state fund, is not going to have any impact at all or very little impact on the cost of Workers' Compensation.

Similarly, I don't believe that Tillinghast said anything about the impact of safety credits on Workers' Comp rates so this document that I am holding says that it does but I don't believe that it said that the savings would be 7.5 percent. In fact, I think they said they couldn't tell, if they said anything about it at all. So I question whether the 15 percent, the 7.5 percent and the 1.5 percent really represents any savings from the present rate. If it doesn't, then the independent actuaries results are that the present package of the Majority will save 6 percent, more or less, not taking into account the job search. I understand the good Representative's comments about that, if you take into consideration the fact that rates would go up 14 percent anyway, then however you figure it, the Majority Report is not going to result in lower rates come next January.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: If I may respond to the gentleman's question. I appreciate your questions. I think everybody should be aware of what happened. We were quite late last week in coming through with a package. We had had three actuaries before the committee with all 23 members of both committees

there and we had their input. What happened when we came up with a package was, we all had goals. By the way, I don't think we are very far off in our minds when we started as to what those goals were. I think, surprisingly, a lot of us were pretty close on the percentages of what we wanted to save or what we wanted to reach in cost reduction. We wanted to know, as I think any reasonable person would, whether or not we were coming close to a goal, whether or not we had somewhat reached a goal and we realized you cannot pin these figures down, they are judgment figures. I went and got some information, spent a lot of time working it over, and in my own mind before we made some additional changes, I had 24 percent. I would just soon tell you my goal was 30 percent. I went to another actuary and got that information today. That information is 36.425 percent, but again, that is a different actuary.

I wanted to answer the Representative, and I may have misunderstood his question the first time, so I have to back up a second and be as direct as I can in my answer. We took that information and went to John Tierney of Tillinghast, whom everybody seemed to feel was neutral. We did that in a rush, we did it last Saturday. He had to look at it very quickly and he wanted more input and more information. That information was provided to him and we got this information back yesterday. So, that is where that came, that is why he put highs and lows in and that is why you see a little difference between what he came through after a preliminary review Saturday and with what we got Tuesday.

Again, I want to emphasize, use your judgment. I have got one here — those who want the 36 percent one, take it. Those that want the 30 percent one, you can have that. In my mind, I have got 24 or 25. I feel certain, just as certain as I am standing here, that the Majority package will give 24 or 25, it may be 32, yes, and it may be 36 and it may be 28. I had a goal to reach, we all had a goal to reach and it was to help Maine's economy and not to do it on the backs of the injured workers. It is to speed up the system and make those savings where they can best be made in a creaky, cranky old system that doesn't work, you do it by fixing the system. Let the actuaries worry about themselves, thank you, but I would prefer to use my own judgment.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: Just two quick points with regard to the question by Representative Carleton.

The actuaries had informed the committee that in all states where they started with a mutual fund that the savings are between 10 and 20 percent. That is the reason for those figures being there.

This does not kick in for one year, so there should be no cost to the system for this mutual fund. If you recall, Representative Mitchell of Vassalboro mentioned a supreme court of the State of Maine decision is the Rusk case, I believe, that if the Ashby is not repealed, then you can expect 10 to 40 percent increase in rates.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: I just want to say that I do not agree with the Representative from Fryeburg with respect to the discussion which he and Representative Anthony had as it related to the question of

causation or entitlement in proposed Section 19 of Representative Hastings amendment.

I think that the Representative from South Portland, Representative Anthony, was correct, that the use of the phrase "acute event" certainly would not include in the definition of Representative Hastings amendment a Carpal Tunnel event. I think that that interpretation is enhanced by the last statement "entitlements for any personal injury or occupational disease must be established by objective and measurable medical evidence." It was my suggestion at one point during the development of some of these terms that we consider the possibility of treating Carpal Tunnel Syndrome as an occupational disease which would be encompassed under the provisions of Section 79 of 39 MRS as it presently exists. Section 183 could be amended to provide that the term "occupational disease" shall be construed to include Carpal Tunnel Syndrome. The difficulties are of historical derivation and are probably of no significance to members of the House.

I can tell you I have practiced under the law as it has derived when things like Carpal Tunnel were not considered industrial accidents and that the use of this language would be clearly to effectuate a change in that so that they would not be considered as industrial accidents.

Since I am hopeful that there will be some reform and since I think that this is an important issue, I wanted to express my views about the definition in Representative Hastings proposed amendment. I think that the language is adequate for the purpose which it attempts to accomplish and I think it should be adopted for a number of reasons for which I will not speak now.

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

Representative RICHARDS: Mr. Speaker, I would pose a question to Representative Ruhlin of Brewer.

With respect to the issue on the 12 percent increase in the Majority Bill, as I understood the Representative from Brewer's remarks is that that common sense would have no change whatsoever if you repealed the statewide search. I guess in going through this again is, common sense — if presently you have a statewide search and it is viewed as a preventative measure to prevent workers who are partially incapacitated and have gone near 400 weeks or whatever and they can't find work within 100 miles and they become total, which would have the effect if this was repealed, then my understanding is that you have workers who are partial and would become totally disabled because of the lack of finding work, despite the fact that they might be recovered, it would seem to me that that would increase the costs to employers as far as the insurance goes. By keeping the statewide search in place, basically is a preventative measure to broaden the spectrum for workers to go out and find work and a greater potential for finding work.

The SPEAKER: The Representative from Hampden, Representative Richards, has posed a question through the Chair to Representative Ruhlin of Brewer who may respond to the question if he so desires.

The Chair recognizes that Representative.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I complement the Representative from Hampden for his understanding of the issue and you would be right, by the way. As a state, had we received credit in the rate filing

procedures for the statewide search, which we should have received but never did receive, then you are absolutely right. When you decrease the level of the area of search, you would have to correspondingly increase the cost to the system. The key to it is that we never, ever, received even one percent credit for requiring the statewide search. These are from the lips of the state Superintendent of Insurance before the full committee, not just before me. I asked the question because I knew it. I followed the filing, in 1987 we went to statewide job search.

I am going to be quite honest of the very few of you who are left here, I had to do this all the way through on that bill when it came to the statewide search and I have always, always had strong anti-feelings towards that provision so I watched. I expect we are going to get at least 10 percent credit for a reduction. You have got to give us at least 10 percent. We are making a person go from Eastport, Maine to the mountains of Fryeburg to get a job. Yet, I looked at the rate filings and we did not get one credit, not one percent of credit for it. In 1988, we got no credit for it. In 1989, we got no credit for it. In 1990, we got no credit for it. So, if you didn't get any credit for anything, you can't add costs to it by taking it away. I hope I have made myself quite clear. Had we received credit, we would have lost it, but we never receive it to start with.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: This issue has been around and around all afternoon and I won't speak long but I did feel for the Record that I had to make some comments. Both these committees, over the past many months, have worked very hard to draft compensation reform packages.

Let me review some of the sad facts. We have, right now, the most expensive Workers' Comp costs in America. What do the injured workers get from this most expensive system? 40 cents on the dollar.

Employees and employers in my area are scared. They are afraid of the future, they are afraid of their jobs.

If we are serious about helping workers, we need to keep people working in Maine. We need to keep our businesses here and, in order to do that, we must find savings in this system. This amendment does this. Remember the Workers' Compensation system was set up to take care of workers who are injured on the job. This system has gone far beyond its original intent.

This amendment provides 413 weeks of benefits from the date of injury, duration time in the Majority Report provides 520 weeks. That is ten years from the date of injury and would have no cost savings. While New Hampshire is 341 weeks from date of injury, Vermont's duration is 330 weeks from date of injury. This amendment has a 413 week from date of injury cost savings that have been estimated around 5 percent.

This amendment limits attorneys fees to 5 percent of the discounted present value of the case with a cap of \$4,000 or billable hours whichever is less, prevents insurance carriers from including the rates any attorneys fee in excess of their limits.

I have many concerns about restricting the statewide job search to only local communities which would substantially unravel the 1987 reform and could

ultimately cost the system a 10 to 20 percent increase. In other words, a person who has partial incapacity would become totally incapacitated and he or she would be eligible for lifetime benefits under the Majority Report. This amendment would require, after a one-year local community search to do a statewide search. The Majority Report would repeal the statewide work search and provide eligibility for lifetime benefits. This would be a substantial cost increase to the system.

In closing, this amendment before you could result in net savings of 41 percent. After the pending 14 percent increase, we are looking at 33.5 percent savings. We need to remain focused on the issue, savings. Savings in this system will help keep businesses in Maine, will keep jobs in Maine. My concerns are not only for the employer but for many, many of the employees who have contacted me about the future of their jobs. We need to make savings in this system because we need to keep jobs in Maine.

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

Representative RAND: Mr. Speaker, I would like to pose a question through the Chair. I would like to ask Representative Aikman, if the 41 percent savings which is supposedly accrued in this amendment, take into consideration the massive increase in litigation to define and sort out compensability where one of their own leaders has agreed that the language as presently stated certainly leaves a lot to be desired and more than likely will throw out everyone who suffers from Carpal Tunnel?

The SPEAKER: Representative Rand of Portland has posed a question through the Chair to Representative Aikman of Poland who may respond if she so desires.

The Chair recognizes that Representative.

Representative AIKMAN: Mr. Speaker, Men and Women of the House: I am not quite sure I understand the good Representative from Portland. However, I do feel very comfortable with the language of compensability in the amendment that we have before us and feel that there wouldn't be an increase cost in litigation.

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

Representative PLOURDE: Mr. Speaker, Men and Women of the House: I am sorry to prolong this but I have one question.

Representative Ruhlin mentioned the timetable for medical services, which I believe is in the Majority Report, why is there not a timetable for a decision to be made by the insurance claim adjuster so that we can expedite the claim?

The SPEAKER: Representative Plourde of Biddeford has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: As I interpret the question of the Representative from Biddeford, he should recognize in the Majority Package we have mandated to all claims adjusters who appear before the informal conference that they shall come equipped with knowledge of the case, they shall come with complete authority to address the case, to resolve the case, that they will report back to the employer and that they will limit the number of cases that they handle.

It is very interesting that you should ask that question because I asked a question of the insurance companies in committee, again with full committee there. I asked, how many cases do the adjusters average? He told me, they average 125 to 130. Frankly, about an hour before that I had talked to a supervisor and asked him the same question. The supervisor was a little more forthcoming and told me that they handle about 300. So, what the Majority Bill does is say, fine, we are going to take you at your word, you say 135 would be about right, we are going to limit you to 135 cases. Not only are you going to be limited to 135 cases but when you show up at informal conferences, you are not going to do what you have done in the past, get up there and say, "That is not my case, that is the other adjuster's case, but he told me to be here today because he couldn't make it, could you schedule something else for us in the future?" Well, we are not going to have that. You are going to come, you are going to know the case and you are going to be authorized to make a decision. Either way, if you make the decision or don't make the decision, you have got to report back to the employer. The employer will also know that you are going to be there because he is going to get a notice. Maybe if you go back three or four times to that employer and say, "I didn't make a decision" and he is paying you thousands of dollars in Workers' Comp payments, he might want to ask you why you didn't resolve that issue or make any decisions. I hope that answers the gentleman's question satisfactorily.

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

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

The SPEAKER: The pending question before the House is the motion of Representative McHenry of Madawaska that House Amendment "A" (H-694) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 176

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

NAY - Aikman, Anderson, Ault, Bailey, H.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren, Foss, Garland,

Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Marsh, Merrill, Murphy, Nash, Norton, Ott, Parent, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Bailey, R.; Cashman, Morrison, O'Dea, Pendexter.

Yes, 96; No, 50; Absent, 5; Paired, 0; Excused, 0.

96 having voted in the affirmative and 50 in the negative with 5 being absent, the motion did prevail.

Representative Whitcomb of Waldo requested a roll call on engrossment.

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

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

The SPEAKER: The pending question before the House is passage to be engrossed as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 177

YEA - Adams, Anthony, Bell, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hochborn, Hogleund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Swazey, Tamaro, Townsend, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

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

ABSENT - Bailey, R.; Cashman, Morrison, O'Dea, Pendexter.

Yes, 89; No, 57; Absent, 5; Paired, 0; Excused, 0.

89 having voted in the affirmative and 57 in the negative with 5 being absent, the bill was passed to be engrossed as amended by House Amendment "B" (H-696) and House Amendment "C" (H-697) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

PASSED TO BE ENACTED

An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages (H.P. 1057) (L.D. 1546) (H. "A" H-637 to C. "A" H-447 and H. "B" H-684)

An Act to Regulate Sales of Malt Liquor in Kegs (H.P. 1142) (L.D. 1667) (H. "B" H-683 to C. "A" H-490)

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

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (EMERGENCY) (H.P. 650) (L.D. 924) on which the House Insisted to its previous action whereby the Bill was Passed to be Engrossed in the House on June 19, 1991.

Came from the Senate with that Body having adhered to its former action whereby the Bill and Accompanying Papers were recommitted to the Committee on Transportation in non-concurrence.

On motion of Representative Macomber of South Portland, tabled pending further consideration and specially assigned for Friday, June 28, 1991.

COMMUNICATIONS

The following Communication: (S.P. 764)

115TH MAINE LEGISLATURE

June 24, 1991

Senator Stephen C. Estes
Rep. Nathaniel J. Crowley, Sr.
Chairpersons
Joint Standing Committee on Education
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Rand N. Stowell of Weld for appointment to the Maine Technical College System Board of Trustees.

Pursuant to Title 20-A, MRSA Section 12705, this nomination is currently pending before the Joint Standing Committee on Education.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Education.

Was Read and Referred to the Committee on Education in concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-686) on Bill "An Act to Allow the Risk Management Division to Provide Insurance Services for Elementary and Secondary Schools in the State" (H.P. 1354) (L.D. 1946)

Signed:

Senators: KANY of Kennebec
THERIAULT of Aroostook

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

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

Signed:

Senator: BRAWN of Knox

Representatives: GARLAND of Bangor
CARLETON of Wells

Reports were read.

On motion of Representative Mitchell of Vassalboro, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-686) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-686) and sent up for concurrence.

Divided Report

(Later Today Assigned)

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-690) on Bill "An Act to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and the Department of Economic and Community Development and Transferring Their Essential Functions" (H.P. 1210) (L.D. 1768)

Signed:

Senator: BERUBE of Androscoggin

Representatives: JOSEPH of Waterville
LARRIVEE of Gorham
WATERMAN of Buxton
KERR of Old Orchard Beach
KILKELLY of Wiscasset
GRAY of Sedgwick

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

Signed:

Senator: EMERSON of Penobscot

Representatives: LOOK of Jonesboro
SAVAGE of Union
NASH of Camden

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought to Pass" Report. On motion of the same Representative, tabled pending her motion that the House accept the Majority "Ought to Pass" Report and later today assigned.

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

CONSENT CALENDAR

Second Day

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

(H.P. 928) (L.D. 1348) Bill "An Act to Reconstitute the Township of Misery-Sapling Gore" (C. "A" H-691)

(H.P. 652) (L.D. 926) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993" (EMERGENCY) (C. "A" H-692)

(H.P. 1197) (L.D. 1750) Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY) (C. "A" H-693)

No objections having been noted at the end of the

Second Legislative Day, the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

SECOND READER

(Later Today Assigned)

Bill "An Act Regarding Simulcasting of Harness Racing" (EMERGENCY) (H.P. 1373) (L.D. 1958)

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

On motion of Representative Mayo of Thomaston, tabled pending passage to be engrossed and later today assigned.

SECOND READER

(Later Today Assigned)

Bill "An Act to Fund a Collective Bargaining Agreement" (EMERGENCY) (H.P. 1374) (L.D. 1959)

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

On motion of Representative Mayo of Thomaston, tabled pending passage to be engrossed and later today assigned.

SECOND READER

(Later Today Assigned)

Bill "An Act to Fund Collective Bargaining Agreements and Benefits for Certain Employees Excluded from Collective Bargaining" (EMERGENCY) (H.P. 1375) (L.D. 1960)

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

On motion of Representative Mayo of Thomaston, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENGROSSED

Bill "An Act to Amend the Maine Administrative Procedure Act" (EMERGENCY) (H.P. 1371) (L.D. 1955)

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

The following Joint Resolution was taken up out of order by unanimous consent:

On motion of Representative MELENDY of Rockland, the following Joint Resolution: (H.P. 1369) (Cosponsor: Representative MAYO of Thomaston)

JOINT RESOLUTION RECOGNIZING THE RETURN TO MAINE OF THE 3-MASTED SCHOONER "VICTORY CHIMES"

WHEREAS, the seafaring heritage and traditions of Maine are recognized around the world; and

WHEREAS, a few short years ago, one of Maine's best-known schooners, the Victory Chimes, the largest passenger-carrying sailing vessel under the American Flag, was sold out of the State of Maine after having sailed the bays and sounds of the Maine coast for 35 years; and

WHEREAS, the Victory Chimes has now been returned to Maine and will be skippered by 2 experienced captains, one of whom is a native Mainer; and

WHEREAS, the Victory Chimes will again be sailing Maine waters and introducing hundreds of people to seafaring traditions of Maine; and

WHEREAS, it is appropriate that the Maine Legislature recognize the symbolism of her return and its importance, as a premier vessel in the American Windjammer Fleet, to Maine's Windjammer Fleet; now, therefore, be it

RESOLVED: That We, the members of the 115th Legislature, now assembled in the First Regular Session, pause in our deliberations to recognize the contributions of the Victory Chimes to the heritage of the State of Maine; and be it further

RESOLVED: That suitable copies of this joint resolution, duly authenticated by the Secretary of State, be transmitted to the new owners of the Victory Chimes, Captains Kip Files and Paul DeGaeta in recognition of the contributions of their gallant vessel, the Victory Chimes, to the maritime heritage of this State.

Was read.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.
Representative MELENDY: Mr. Speaker, Men and Women of the House: I would just like to welcome the Victory Chimes back to the city of Rockland and the State of Maine.

As the largest passenger-carrying sailing vessel under the American Flag, it is fitting that the Victory Chimes return home to the Maine coast. Our state is know world over for its sailing heritage and shipbuilding skills. We are very pleased that the Victory Chimes has returned to Maine's history and tradition and to, once again, have an opportunity to be skippered by a Maine native.

Rockland, as schooner capital of the world, is honored to welcome in its harbor the premiere vessel of the American Windjammer Fleet — "Welcome home Victory Chimes where you belong."

Subsequently, was adopted and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Correct Errors and Clarify Provisions in the Solid Waste Laws (H.P. 1296) (L.D. 1873) (H."A" H-677 to C."A" H-667) which was tabled earlier in the day and later today assigned pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

(At Ease to Gong)

The House was called to order by the Speaker.

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

SENATE PAPER

The following Joint Resolution: (S.P. 768)

**JOINT RESOLUTION COMMEMORATING
THE 150th ANNIVERSARY OF THE
TOWN OF MEDDYBEMPS**

WHEREAS, our State is known nationwide for the special quality and human scale of the small communities on the edges of our woodlands and lakes; and

WHEREAS, Meddybemps, a town of 125 residents, which is located in one of the rugged and beautiful regions of Washington County, is a sterling example of these special communities; and

WHEREAS, the town derives its name from the lovely Meddybemps Lake, which it abuts, whose name is derived from a Native American word for "plenty of alewives"; and

WHEREAS, the first English settlers in the area came to build sawmills around 1812; and

WHEREAS, the area prospered and its population grew during the first part of the nineteenth century; and

WHEREAS, the Town of Meddybemps was set off from the surrounding towns of Cooper, Charlotte and Baring, and was incorporated on February 20, 1841 by Private and Special Law 1841, chapter 103; and

WHEREAS, since the town's incorporation it has

served as a nurturing home for generations of its families and as a serene retreat for its visitors from elsewhere in the State and from the rest of the nation; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the 150th anniversary of the Town of Meddybemps, and to commend the inhabitants and officials of this town for the success they have achieved together over the past century and a half, and to extend to each our sincere hopes and best wishes for continued achievement over the next 150 years years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-187) on Bill "An Act to Preserve the Integrity of the Maine State Lottery" (S.P. 80) (L.D. 143) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill, 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-187), which was tabled earlier in the day and later today assigned pending the motion of Representative Lawrence of Kittery that the House accept the Majority "Ought to Pass" Report.

Subsequently, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-187) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-187) in concurrence.

The following items appearing on Supplement No. 10 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies (H.P. 1166) (L.D. 1707) (S. "A" S-367 to C. "A" H-498

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

PASSED TO BE ENACTED

An Act to Improve the Maine Workers' Compensation

System (H.P. 1372) (L.D. 1957) (H. "B" H-696 and H. "C" H-697)

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

Representative Whitcomb of Waldo requested a roll call on enactment.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 178

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

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

ABSENT - Cashman, Duplessis, Hichens, Lipman, Morrison, Pendexter.

Yes, 89; No, 56; Absent, 6; Paired, 0; Excused, 0.

89 having voted in the affirmative and 56 in the negative with 6 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-690) on Bill "An Act to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and the Department of Economic and Community Development and Transferring Their Essential Functions" (H.P. 1210) (L.D. 1768) and Minority

Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report.

Representative Whitcomb of Waldo requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 179

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

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Clark, H.; Donnelly, Farnum, Farren, Foss, Garland, Graham, Greenlaw, Hanley, Hastings, Heino, Hepburn, Kontos, Kutasi, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, Melendy, Merrill, Michaud, Murphy, Nash, Norton, Ott, Parent, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tracy, Tupper, Whitcomb.

ABSENT - Cashman, Duplessis, Hichens, Lipman, Morrison, Paradis, J.; Pendexter.

Yes, 87; No, 57; Absent, 7; Paired, 0; Excused, 0.

87 having voted in the affirmative and 57 in the negative with 7 being absent, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-690) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

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

SENATE PAPERS

Bill "An Act to Allow a Referendum in Sagadahoc County Regarding a Bi-county Work Center with Kennebec County" (EMERGENCY) (S.P. 766) (L.D. 1962)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

Under suspension of the rules and without reference to a Committee, the bill was read twice and passed to be engrossed in concurrence.

Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates" (S.P. 767) (L.D. 1963)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

Subsequently, was referred to the Committee on State and Local Government in non-concurrence and sent up for concurrence.

Divided Report

(Later Today Assigned)

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Reorganize the Management and Regulatory Functions of State Government Pertaining to Natural Resources" (EMERGENCY) (S.P. 730) (L.D. 1915)

Signed:

Senator: EMERSON of Penobscot

Representatives: NASH of Camden
HEESCHEN of Wilton
LOOK of Jonesboro
WATERMAN of Buxton
SAVAGE of Union
GRAY of Sedgwick
KILKELLY of Wiscasset
KERR of Old Orchard Beach

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-372) on same Bill.

Signed:

Senators: BUSTIN of Kennebec
BERUBE of Androscoggin

Representatives: LARRIVEE of Gorham

JOSEPH of Waterville

Came from the Senate with the Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-372).

Representative Joseph of Waterville moved that the House accept the Minority "Ought to Pass" Report.

On motion of the same Representative, tabled pending her motion that the House accept the Minority "Ought to Pass" Report and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 640) (L.D. 1688) Bill "An Act to Review the Kennebec County Budget Committee" (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-369)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

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

(At Ease to Gong)

The House was called to order by the Speaker.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Review the Kennebec County Budget Committee (S.P. 640) (L.D. 1688) (C. "A" S-369)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Allow a Referendum in Sagadahoc County Regarding a Bi-county Work Center with Kennebec County (S.P. 766) (L.D. 1962)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

PASSED TO BE ENACTED

An Act to Preserve the Integrity of the Maine State Lotteries (S.P. 80) (L.D. 143) (C. "A" S-187)

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

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

SENATE PAPER

Non-Concurrent Matter

Bill "An Act Regarding the Crime of Prostitution" (EMERGENCY) (H.P. 1364) (L.D. 1952) which was read twice under suspension of the rules and without reference to any committee passed to be engrossed in the House on June 19, 1991.

Came from the Senate referred to the Committee on **Judiciary** in non-concurrence.

The House voted to recede and concur.

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

SENATE PAPER

Non-Concurrent Matter

An Act Making Additional Allocations from the Highway Fund for the Expenditures of State Government for the Fiscal Year Ending June 30, 1991 (EMERGENCY) (H.P. 1349) (L.D. 1942) (C. "A" H-681) which was passed to be enacted in the House on June 26, 1991.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on **Transportation** in non-concurrence.

On motion of Representative Macomber of South Portland, tabled pending further consideration and

later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Maine Administrative Procedure Act" (EMERGENCY) (H.P. 1371) (L.D. 1955) which was read twice under suspension of the rules without reference to a committee and passed to be engrossed in the House on June 26, 1991.

Came from the Senate referred to the Committee on **State and Local Government** in non-concurrence.

The House voted to Adhere.

Representative Dore of Auburn was granted unanimous consent to address the House:

Representative DORE: Mr. Speaker, Members of the House: On Roll Call #178, I was recorded as voting no. I voted yea as I had on Roll Calls #176 and #177 and I wouldn't want anyone to think that I had done this deliberately. My intention was to vote yea and I would like that duly noted. Thank you.

The Chair laid before the House the following matter: An Act to Amend the Child Labor Laws and to Allow Illegally Employed Minors to Bring Suit Against Their Employers for Work Related Injuries (H.P. 635) (L.D. 905) (S. "A" S-347 to C. "A" H-593) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings. Representative HASTINGS: Mr. Speaker, Men and Women of the House: This particular bill we have debated long before and I won't rehash all of the issues.

However, if you will look at the very last part of the title on L.D. 905, you will see that it is to allow illegally employed minors to bring suits against their employers for work related injuries. This is one of the very core issues of Workers' Compensation. What is being done is to change the whole structure of it dealing with this issue. I suggest that that is most imprudent, it is not one that is in asymmetry with the systemic process that the Workers' Compensation process or procedure of no-fault allows.

I would urge you to vote against enactment of this bill and I would ask for the yeas and nays.

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

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

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

Representative LIPMAN: Mr. Speaker, Men and

Women of the House: I signed the Majority Report and I will vote in favor of the bill. I believe since this bill was last voted upon, a very fair compromise was offered and turned down.

To the members of the Minority Party who supported the majority position last time, I well understand if you don't support it this time in view of the compromise that was offered. However, where I signed on that report, I will continue to vote for this bill.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Last time we voted on this issue, we had a 103 votes and every member of this House knew exactly what they were voting on.

We are voting on a bill that will allow the parents of a child who is illegally hired by an employer to sue because that employer is utilizing that child illegally. If he was using that child legally, employing that child, he would come under Workers' Comp and there would be no suit. That employer that we are allowing these parents to sue are the very employers who are illegally hiring these children. I don't think there is anybody in this House that would allow his or her child to be hired illegally. It can happen, ladies and gentlemen. It doesn't mean that you don't care where your child is, you are under the assumption that your child is working for an employer the way that he was supposed to utilize your child, not putting that child in a dangerous position or a workplace where there is danger for that child to die, be maimed, and that is all that we are saying. We are allowing the parents, whose child may even die on the job, to sue. It is no windfall, I assure you.

When I read in the paper where the Governor said that it should be the parents' responsibility, I was appalled to hear that he said that we shouldn't allow the parents to have a windfall because the child happens to die on the job. I just couldn't believe it.

I have heard from my constituents things that have been said to me that I will not repeat and he would not like to hear what they had to say about what he said.

I hope that we continue with the vote, we had a 103 votes — if we believed it then, why should we change now? It was a good bill and is still a good bill.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative PINEAU.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief but this is probably the most important issue coming out of Labor other than the package that you voted on earlier today.

The provision that was spoken of by the Representative from Fryeburg and the Representative from Madawaska is only one small part of this bill. The important parts I think have to be said and this House voted exceedingly strong on engrossment. I hope you hold your vote.

This bill increases the student minimum wage from 75 to 85 percent of minimum wage. This bill requires employers to maintain a time or record book for employees under 18. This bill increases the penalties for employers who violate provisions of child labor laws. It sets up two different schedules for recording and reporting violations and also for

other violations. It also sets up a schedule on multiple violations for the same employer.

The most important thing this bill does is it gives the superintendents of schools the powers to pull a work permit if the student's grades aren't what they should be. What this is is this legislature telling the employers of this state and telling the minors of this state that "school comes first." If we do consider this being that our children are our most important resource, I think we ought to back that up with our votes.

Yes, those parts are all unanimous. As a matter of fact, some of the language is directly out of the Governor's bill on superintendents enabling them to pull a work permit. The part of the bill that comes under controversy is the part on illegally hired minors that are hurt or killed at work. Now these aren't minors that are illegally hired due to recording or reporting violations, these are illegally hired minors in dangerous jobs or hazardous situations. Employers should know better than that.

There is also a provision in the bill that any comp that comes off one of these, if there is a civil action, the comp gets paid back. The money is recovered in the comp system. It actually would cut our rate of costs. Why should good Maine employers be at risk to pick up tabs on employers who would illegally hire minors in those situations? We are not alone, there are many other states that do this, there are many other states that handle it in different ways.

I think this is a strong message but the right message to send if we believe that education comes first.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative RUHLIN.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I would point out to you that the gentleman from Fryeburg mentioned Workers' Comp and its holding on minors. However, Workers' Comp refers to those workers who are legally hired. This bill is referencing those minors who are illegally hired. It is somewhat punitive in one sense and it is meant to be, you should not be illegally hiring minors, so this very good bill that so many of you voted for in the past is still the same good bill that you voted for. I hope you will continue to support this bill tonight.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 180

YEA - Adams, Aliberti, Anthony, Bailey, H.; Bailey, R.; Bell, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, LaPointe, Larrivee, Lawrence, Lebowitz, Lemke, Libby, Lipman, Lord, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, MCHENRY, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau,

Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Sheltra, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Barth, Bennett, Bowers, Farren, Foss, Garland, Hanley, Hastings, Hepburn, Look, MacBride, Marsano, Nash, Pendexter, Pendleton, Pines, Reed, W.; Richards, Savage, Whitcomb.

ABSENT - Cashman, Constantine, Hichens, Kerr, Merrill, Morrison.

Yes, 122; No, 23; Absent, 6; Paired, 0; Excused, 0.

122 having voted in the affirmative and 23 in the negative with 6 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

TABLED AND TODAY ASSIGNED

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

An Act Concerning the Low-income Home Energy Assistance Program (EMERGENCY) (H.P. 1333) (L.D. 1924) (S. "B" S-362 to C. "A" H-652)

- In House, Passed to be Enacted on June 19, 1991.
- In Senate, Failed of Passage to be Enacted in non-concurrence.

TABLED - June 19, 1991 by Representative MELENDY of Rockland.

PENDING - Further Consideration.

On motion of Representative Melendy of Rockland, the House voted to Recede.

The same Representative offered House Amendment "A" (H-707) and moved its adoption.

House Amendment "A" (H-707) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-652) as amended by Senate Amendment "B" (S-362) thereto and House Amendment "A" (H-707) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Majority Report (8) of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Reorganize the Management and Regulatory Functions of State Government Pertaining to Natural Resources" (EMERGENCY) (S.P. 730) (L.D. 1915) and Minority Report (4) of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-372) on same Bill, Came from the Senate with the Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee

Amendment "A" (S-372), which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought to Pass" Report.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I have no delusions here as to what the state of this particular piece of legislation is. I do think this body needs to understand what this bill might do.

First of all, we have heard the Chief Executive of this state talk about a government that Maine people can afford. We have heard the Chief Executive talk about downsizing state government and we have heard the Chief Executive talk about reorganization and restructuring. We have also been told that we are going to have to raise \$350 million dollars worth of new revenues. This bill is an attempt to address the issues of restructuring. It is an attempt to incorporate the Department of Agriculture, the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Maine Waste Management Agency and the Division of Health and Engineering, one function in that DHS department.

This bill creates a select committee made up of 15 people from all the committees and jurisdictions of all the departments. This select committee would be charged to establish a single department working with the Director of State Planning, Mr. Silkman, and with the Technical Advisory Committee. This select committee would then report back to the Maine Legislature with a plan. Regardless of what anybody says, they can suggest that there be no plan or they can suggest that certain elements should be in this department and certain elements should not be in it.

The original cost estimates of savings were approximately \$500,000 the first year with \$1.5 million the second year or \$2 million, depending on how it is implemented.

With that, my personal philosophy and the reason I signed this "Ought to Pass" is, as department heads recommend to Appropriations cuts and direct service people, I am recommending in this bill the cuts to administrative personnel who would answer to one Commissioner and five bureau directors. Functions in these departments would not be changed. All of the policies, all of the goals of these departments would stay the same. With that, I would encourage you to consider the Minority Report. I certainly understand your reservations.

Representative Jacques of Waterville moved that L.D. 1915 and all accompanying papers be indefinitely postponed and requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Jacques of Waterville that L.D. 1915 and all accompanying papers be indefinitely postponed. Those in favor will vote

yes; those opposed will vote no.

ROLL CALL NO. 181

YEA - Adams, Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutilier, Bowers, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Coles, Cote, Crowley, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Hanley, Hastings, Heeschen, Heino, Hepburn, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Ketover, Ketterer, Kilkelly, Kutasi, LaPointe, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; McHenry, McKeen, Melendy, Merrill, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pines, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Saint Onge, Salisbury, Savage, Sheltra, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb.

NAY - Cathcart, Chonko, Clark, H.; Clark, M.; Daggett, Gean, Gwadosky, Hale, Handy, Joseph, Kontos, Larrivee, Lawrence, Mayo, Pineau, Rydell, Simonds.

ABSENT - Cashman, Constantine, Hichens, Kerr, Morrison, The Speaker.

Yes, 128; No, 17; Absent, 6; Paired, 0; Excused, 0.

128 having voted in the affirmative and 17 in the negative with 6 absent, the bill and all accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Fund a Collective Bargaining Agreement" (EMERGENCY) (H.P. 1374) (L.D. 1959) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Subsequently, the Bill was passed to be engrossed and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Fund Collective Bargaining Agreements and Benefits for Certain Employees Excluded from Collective Bargaining" (EMERGENCY) (H.P. 1375) (L.D. 1960) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Daggett of Augusta offered House Amendment "A" (H-705) and moved its adoption.

House Amendment "A" (H-705) was read by the Clerk. The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Members of the House: I hope you will join me in this motion which removes the deappropriation from the bill and would be treating the funding of the contract in a similar way. Several years ago, all the state employee unions negotiated three-year contracts and

they provided comparable increases in salary and benefits. I hope that you will join me with this so that that will continue.

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

Representative MACOMBER: Mr. Speaker, I would pose a question to Representative Daggett. Looking at this fiscal note, are you saying that the Highway Fund has got to come up with \$11 million more and the General Fund \$32 million more?

The SPEAKER: Representative Macomber of South Portland has posed a question through the Chair to Representative Daggett of Augusta who may respond if she so desires.

The Chair recognizes that Representative. Representative DAGGETT: Mr. Speaker, Members of the House: It would be my hope that in any contract proposal that both sides would reach an agreement together instead of having a unilateral agreement written ahead of time and put into statute. That is what this amendment would hope to accomplish. I would hope that is how that would happen.

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

Representative MACOMBER: Mr. Speaker, Men and Women of the House: I am still not sure if this amendment is adopted you are expecting the General Fund and the Highway Fund to come up with the amounts of money that's listed on Page 3 under the appropriations and allocations?

The SPEAKER: Representative Macomber of South Portland has posed a question through the Chair to Representative Daggett of Augusta who may respond if she so desires.

The Chair recognizes that Representative. Representative DAGGETT: Mr. Speaker, Members of the House: This would mean that this bill would sit on the Appropriations Table with other bills.

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

Representative DONNELLY: Mr. Speaker, I would like to pose a question.

To members of Appropriations — in the current negotiations, is this additional \$32 million in the budget or would this have to start negotiations all over again and we would have to find this \$32 million either in cuts or taxes?

The SPEAKER: Representative Donnelly of Presque Isle has posed a question through the Chair to any member of the Appropriations Committee who may respond if they so desires.

The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: I think the answer to the question would be yes, but the contract has already been negotiated and it is a matter of funding that contract.

If I understand the Representative from Augusta's amendment, she is going to remove the deappropriation section and the language on how that deappropriation would take place and ask this bill, with this amount of money, to be moved onto the Appropriations Table to be funded or not funded with all other bills that are sitting on the table now.

Representative Macomber of South Portland requested a Division.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: We just passed L.D. 1959 which was a companion bill in ways because it related to the State Police. Apparently the State Police, as near as I can tell from what little I know about this, negotiated a better contract than apparently these particular unions. If I read the Statement of Fact correctly, it seems to me as though what this amendment purports to do is to remake, through the legislation, the contracts so that the fiscal applicability of all of the contracts (that is the three) are the same.

I don't understand why we are trying to do this through legislation and why that is not done through negotiations. I would like somebody to explain to me why it is being done in this fashion. L.D. 1959 which was just passed, passed without comment under the hammer, it strikes me as a strange way of proceeding.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Belfast, Representative Marsano, just let the cat out of the bag. I think it is fair game to chase it.

When the Governor negotiated a contract with the state employees, everybody pounded their chest, what a great thing he did. He did it before the other contract expired but he was months and months settling the contract with the state troopers because they held out for the very same type of expediency that we are trying to do away with now. The Governor and his negotiators negotiated a contract, they should have found some way to pay for it. They knew at the time that we could not be held liable for it and to come back now and say we did it with the state troopers but we can't do it with the state employees — the difference, I will say it again, they were in such a hurry to show that they gave the state employees a three-year contract, but no one else, and repeatedly at the time, the former Governor's name was brought up and the Governor before him was brought up that they had stonewalled the state employee contracts. Yet, this Governor, and they bragged at the time of the election last fall how they were able to settle a contract before it expired — that is why we have got the mess we have tonight.

I agree with the good Representative from Augusta, Representative Daggett, go back and find out how you can pay for it, don't come back and say, I will furlough someone so that I can go through with my promise.

I would hope that you would go along with the amendment of the good Representative from Augusta, Representative Daggett.

The SPEAKER: The Chair will order a vote. The pending question before the House is adoption of House Amendment "A" (H-705). Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Gwadosky of Fairfield requested a roll call vote.

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

A vote of the House was taken and more than

one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is adoption of House Amendment "A" (H-705). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 182

YEA - Adams, Aliberti, Ault, Bailey, H.; Bell, Boutilier, Cahill, M.; Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, Duffy, Dutremble, L.; Erwin, Farnsworth, Farren, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Handy, Heesch, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Lipman, Luther, Mahany, Manning, Marsh, Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Powers, Rand, Reed, W.; Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Spear, Stevens, P.; Strout, Swazey, Tammaro, Tardy, Townsend, Tracy, Treat, Vigue, Wentworth, The Speaker.

NAY - Aikman, Anderson, Anthony, Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, DiPietro, Donnelly, Duplessis, Farnum, Foss, Garland, Hale, Hanley, Hastings, Heino, Hepburn, Kutasi, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; Merrill, Murphy, Ott, Pendexter, Pines, Pouliot, Reed, G.; Richards, Ricker, Small, Stevens, A.; Stevenson, Tupper, Waterman, Whitcomb.

ABSENT - Cashman, Constantine, Dore, Hichens, Kerr, Morrison.

Yes, 101; No, 44; Absent, 6; Paired, 0; Excused, 0.

101 having voted in the affirmative and 44 in the negative with 6 absent, House Amendment "A" (H-705) was adopted.

Subsequently, the Bill was passed to be engrossed as amended by House Amendment "A" (H-705) and sent up for concurrence.

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

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

SENATE PAPER

Bill "An Act to Allow Nonprofit Organizations to Use Proceeds from Beano or Bingo for Limited Purposes" (EMERGENCY) (S.P. 765) (L.D. 1956)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had

suggested reference to the Committee on Legal Affairs.)

Representative Stevens of Sabattus moved that L.D. 1956 and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope you don't indefinitely postpone this bill. There is an amendment to be offered and I am waiting for it to come back right now. It may clear up some of the problems that we have with this bill.

I hope when you vote, you don't vote to indefinitely postpone.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Stevens of Sabattus that L.D. 1956 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

46 having voted in the affirmative and 80 in the negative, the motion did not prevail.

Subsequently, under suspension of the rules and without reference to a committee, the bill was read once and assigned for second reading later in today's session.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: "An Act Concerning Security Deposits" (H.P. 1332) (L.D. 1923) which was tabled earlier in the day and later today assigned pending reconsideration.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: The hour is indeed late and I won't delay you but a minute.

This bill, as I am sure you all recall, is the infamous security bill that would have closed the loophole in the existing law that lets a handful of unscrupulous landlords charge any number of months rent upfront in advance of a tenant moving in.

I read the Governor's veto message the other day and wondered if the Governor wasn't just a little bit concerned about the plight of single parents who are often looking for places to live and the plight of a lot of other different groups of disadvantaged people. In his message the Governor said that it is important that we pass laws that "reflect the reality of the way Maine people live." I couldn't help but ask myself if Governor McKernan wasn't at least a little bit concerned about old people, single parents or college students who might be trying to move into a place and then are told that they have to come up with six, ten or twelve months rent in advance before they move in.

In the State of Maine, we have laws that prevent

discrimination in housing, employment and other areas on the basis of sex, religion, age, race, etcetera because we find discrimination to be repugnant. Yet we have a bill here, a loophole in an existing law, that discriminates against people who are economically disadvantaged. If you don't think that it does, you need only think about what class of people it is that would have the most difficult time coming up with six, eight, ten or twelve months rent upfront and in advance of moving in.

I would suggest that there is very little that could be more discriminatory working against these people than having a policy in place where this is permissible. Yet, Governor McKernan vetoed the bill because he said that it doesn't reflect the way Maine people live. I was a little bit confused by that, just a little bit confused, and then it occurred to me that Governor McKernan was talking about his people, the people who own property on the coast, who rent out ski condos, etcetera and not necessarily people who are single parents, who are young, who are old, or economically disadvantaged. I guess there are two different standards for Maine people, the well-off landowners, the affluent people that he runs with, that is a fine crowd but if you don't fall into that group, I guess you don't get the same rights and protections as his people.

I begrudge these landlords nothing but I am forever disappointed in our government when it guarantees landlords a profit and thinks that that is a more important good than maintaining good public policy, something that has been sacrificed by the veto of this bill. I think the people of Maine deserve a little bit better and I would urge you to override this veto.

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

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: It is not that I object to the Governor exercising his right to veto a bill but I would like to clarify something in his veto statement. It has never been the interpretation of anyone on the committee or anyone involved in the legislature that it is clear that advanced payment of rent are not included in security deposits. In fact, that is what everybody considers advanced payment of rent to be. So, I object to the Governor giving his opinion that advanced payments of rent were never meant to be included in security deposits, that is simply not true.

The SPEAKER: After reconsideration, the pending question before the House is, "Shall this Bill become law notwithstanding the objections of the Governor?" Pursuant to the Constitution, the vote will be taken by the yeas and nays. This requires a two-thirds vote of the members present and voting. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 183

YEA - Adams, Aliberti, Anthony, Bell, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Clark, M.; Cote, Crowley, Duffy, Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hognlund, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Nutting, O'Dea, Oliver, Paradis, J.; Pfeiffer, Pineau, Pouliot,

Powers, Rand, Richardson, Rotondi, Rydell, Saint Onge, Simonds, Simpson, Stevens, P.; Swazey, Townsend, Treat, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Bowers, Butland, Carleton, Carroll, J.; Coles, Daggett, DiPietro, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Hanley, Hastings, Heino, Hepburn, Hussey, Ketterer, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Marsano, Marsh, Merrill, Murphy, Nash, Norton, O'Gara, Ott, Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Ricker, Ruhlin, Salisbury, Savage, Sheltra, Skoglund, Small, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Tracy, Tupper, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Cashman, Constantine, Dore, Hichens, Kerr, Morrison, Poulin.

Yes, 69; No, 75; Absent, 7; Paired, 0; Excused, 0.

69 having voted in the affirmative and 75 in the negative with 7 being absent, the Governor's veto was sustained.

The Chair laid before the House the following matter: An Act Concerning Unemployment Benefits During Lockouts" (H.P. 649) (L.D. 923) (C. "A" H-326) which was tabled earlier in the day and later today assigned pending reconsideration.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: Sorry to bore you with my rising to the occasion to speak again but I feel that this is a real important issue and I would hate for it to go through the ranks without people having their attention called again to this.

I know that it is late and I know that attention spans are short but this is an important bill.

I am sorry that our head Executive Officer has decided to send this back unsigned with a veto message with it.

I think what this shows is inconsideration for the working men and women of this state. A lockout is much different than a strike. In a strike situation, the employees have chosen to hold back their labors in order to have a negotiating tool. In a lockout, they show up at the gate to work but the employer refuses them work, even though they are there to work and capable of work. Why should they be denied unemployment benefits when it is solely the employers own doing?

Sixteen other states protect their workers in lockout situations on unemployment benefits. Maine wouldn't be breaking new ground here. All Maine would be doing is protecting their workers so that employers cannot use this as a tool in order to starve out a collective bargaining agent from coming to the negotiating table.

Please hold your vote and override this veto.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I rise on this particular bill because it is a bill that I believe we saw last session. It is, again, a bill which changes the

balance between labor and management in the issue of strikes or contracts, if you will. Lockouts, like strikes, are tools that are used (unfortunately) in the whole process. I believe there have only been two lockouts in this state that I am aware of or that is what I recall from the testimony, they were short-lived.

Unemployment benefits, if you will, are paid the minute somebody restarts their plant. If they choose to close the doors and suffer this extreme loss that any company would have by shutting their plant down, it seems to me that that is just like a strike on the other side of the shoe. I don't see that one is divorced of the other, they are both unfortunate circumstances and neither side really likes to come to but does come to from time to time. In those cases, I think that it is appropriate to hold the balance in this state and I know that in most states that it is held and I would hope that you would continue to vote to sustain this veto.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I totally disagree with the comments that the good Representative from Fryeburg just made. If I happen to go into my employment in the morning or anytime and I could not get through that gate, through no act of my own, but through the acts of the employer, why should I suffer along with the other 650 employees and other people in the area when my employer chooses to lock me out of a job that I chose to go to? We are not talking about a strike where we go into a union meeting and vote our conscience to either strike or not to strike, this is a lockout, this is totally different. I think the gentleman from Fryeburg is confusing the issue.

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

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: This legislation would change the current law to allow individuals to receive immediate unemployment compensation benefits when their unemployment is caused by a lockout. Allowing the payment of benefits during a lockout would remove Maine's unemployment system from its current position of neutrality to a position of favoring labor.

This fund is supported by all the employers in the state to guarantee that there is a fund that exists through economic down times. Remember the U.S. Supreme Court ruled as early as 1965 that lockouts were not unfair labor practices. The court reasoned that if employees can withhold their services in support of bargaining positions, the employer could withhold employment; in other words, the employees right to strike is balanced by the employers right to lock out.

I ask you to think carefully on this issue and vote to sustain the Governor's veto.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: There is a big difference between a strike and a lockout. When people choose to strike, they choose not to work, they choose to withhold their labor and the employer has the right to hire. We can't shut down the employer. That is the even playing field that we are talking about.

The employees do receive strike benefits when they are out on strike but when an employee is locked

out, that employee does not receive strike benefits, that employee does not receive unemployment and all we are saying is, if the person is willing and able to work, they should be receiving unemployment if the employer locks them out. Sixteen other states saw fit to do it and we should do the same.

There is a big difference between a strike and a lockout and the difference is, when you are locked out, you get zero. There is nothing coming in and what happens is, you go on General Assistance, the taxpayers have to pay for you and that is not fair, ladies and gentlemen. The taxpayers have to support these people because one industry chooses to lock you out. It hasn't been used very often in the State of Maine but when it is, it isn't right.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry for the lateness but I would be remiss if I didn't say something this evening particular on this override.

As you know, I am a cosponsor of this bill, I have been sponsoring these pieces of legislation for some time since I have been here.

If you have one lockout in the State of Maine, you have one too many. You don't have to be a negotiator in a contract to be involved in a lockout, that is where the misconception comes in. You could be going to work in the morning and come up to the gate and find there is a lock on the door and you are locked out and you don't get any money at all while you are on the lockout.

In all of the years I have negotiated contracts, I haven't found anybody who would be willing to take a strike. When you go out on a strike, you don't get a paycheck every week and you might have a union who has strike funds and you might not. There is no guarantee that you will get any money whatsoever so I hope when you vote this evening, you will vote to override the Governor's veto.

I wish when the Governor looks at some of these labor issue, that one time or another when he does look at one, he will take some time and pass one.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Men and Women of the House: The Representative from Rome, Representative Tracy, forgets what a business is in business for and that is to make money. You don't make money by engaging in a lockout. It is very expensive for businesses to get new people and train them, to put in a new work force, it is not in the interest of a business to lock out their employees unless there is an ongoing labor dispute and that is why we have had so few of them in our history.

I would submit that this bill does upset the balance, it does put a very useful tool in the hands of organized labor and makes it difficult and may actually lead to more labor disputes in this state.

I encourage you to sustain the veto.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: Again I apologize for the time but I can't let the last statements go unchallenged.

I would like to pose a question through the Chair to the good Representative from Norway. How could organized labor force an employer to lock them out so they could get unemployment benefits?

The SPEAKER: The Representative from Jay, Representative Pineau, has posed a question through the Chair to the Representative from Norway, Representative Bennett, who may respond if he so desires.

The Chair recognizes that Representative.

Representative BENNETT: Mr. Speaker, Men and Women of the House: I believe that by being intransigent in a contractual dispute, you could encourage a mood of hostility which would encourage management to extend their ultimate weapon in a labor dispute, which is a lockout.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to this — I don't believe you have to be in negotiations, I believe if I went into the gate tomorrow morning and that they felt like locking me out, under the current law and under the U.S. Supreme Court ruling of 1965, I assume they could do this. Hence, I would have no paycheck or unemployment or anything to compensate while I am out and I am willing to go in and work.

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

Representative MCKEEN: Mr. Speaker, Members of the House: Representative Hastings mentioned that there have only been two lockouts in anyone's memory — that is true. Both times it was the same employer right here in Augusta. The reason for lockouts at this one plant was that their orders were very slow at the time and they took advantage of the contract running out and locked out their employees. That way, they were not responsible for any unemployment. That was the only time that a lockout was used in the State of Maine in anyone's memory. The employer used it to their own advantage and the employer ended up signing the exact same contract that was on the table before they locked them out.

The SPEAKER: After reconsideration, the pending question before the House is, "Shall this Bill become law notwithstanding the objections of the Governor?" Pursuant to the Constitution, the vote will be taken by the yeas and nays. This requires a two-thirds vote of the members present and voting. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 184

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

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Duplessis, Farnum, Farren,

Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Marsh, Merrill, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Cashman, Constantine, Dore, Hichens, Kerr, Morrison, Strout.

Yes, 93; No, 51; Absent, 7; Paired, 0; Excused, 0.

93 having voted in the affirmative and 51 in the negative with 7 being absent, the Governor's veto was sustained.

The following items appearing on Supplement No. 17 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Annex the Town of Richmond to Lincoln County (S.P. 683) (L.D. 1811) (H. "B" H-685 to C. "A" S-280 and S. "A" S-346)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Reinstitute the Township of Misery-Sapling Gore (H.P. 928) (L.D. 1348) (C. "A" H-691)

An Act to Allow the Risk Management Division to Provide Insurance Services for Elementary and Secondary Schools in the State (H.P. 1354) (L.D. 1946) (C. "A" H-686)

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

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

(Off Record Remarks)

On motion of Representative Handy of Lewiston, Adjourned at 11:56 p.m. until Friday, June 28, 1991, at nine o'clock in the morning.