

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME V

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991

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SECOND REGULAR SESSION

House of Representatives

January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
FIRST SPECIAL SESSION
7th Legislative Day
Wednesday, July 17, 1991

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

Prayer by Father Lionel Chouinard, St. Augustine's Catholic Church, Augusta.

The Journal of Tuesday, July 16, 1991, was read and approved.

SENATE PAPER

Bill "An Act to Authorize Payment of Payroll Obligations to Certain State Employees for Work Already Performed for Which Payment Is Scheduled on July 16, 1991 and July 23, 1991" (EMERGENCY) (S.P. 780) (L.D. 1980)

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 Appropriations and Financial Affairs.)

Subsequently, L.D. 1980 and all accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

ORDERS OF THE DAY
UNFINISHED BUSINESS

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

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

Resolve, to Establish the Commission to Study the Use of Professional Strikebreakers (EMERGENCY) (H.P. 139) (L.D. 199) (C. "A" H-185 and S. "A" S-421)
TABLED - July 16, 1991 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Motion of same Representative to Reconsider whereby the Resolve Failed of Final Passage.

Subsequently, the House reconsidered its action whereby L.D. 199 failed of final passage.

The SPEAKER: The pending question before the House is final passage.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of same and 20 against, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

Resolve, to Study the Feasibility of a Statewide Health Insurance Program (EMERGENCY) (H.P. 1184) (L.D. 1727) (S. "B" S-424 to C. "A" H-406)
TABLED - July 16, 1991 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Final Passage.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of same and 12 against, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

An Act to Eliminate the Lobster Management Task Force (S.P. 365) (L.D. 967) (S. "B" S-441 to C. "A" S-290)
TABLED - July 16, 1991 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Chonko of Topsham, under suspension of the rules, the House reconsidered its action whereby L.D. 967 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-290) as amended by Senate Amendment "B" (S-441) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "B" (S-441) to Committee Amendment "A" (S-290) was adopted.

On further motion of the same Representative, Senate Amendment "B" (S-441) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-765) to Committee Amendment "A" (S-290) and moved its adoption.

House Amendment "B" (H-765) to Committee Amendment "A" (S-290) was read by the Clerk and adopted.

Committee Amendment "A" (S-290) as amended by House Amendment "B" (H-765) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-290) as amended by House Amendment "B" (H-765) thereto in non-concurrence and sent up for concurrence.

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

An Act to Enhance the Integrated Pest Management Capabilities of Agriculture in the State (H.P. 875) (L.D. 1261) (S. "B" S-446 to C. "A" H-273) TABLED - July 16, 1991 (Till Later Today) by Representative MAYO of Thomaston.
PENDING - Passage to be Enacted.

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

BILL RECALLED FROM LEGISLATIVE FILES

(Pursuant to Joint Order - House Paper 1392)

An Act to Make Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1991, June 30, 1992 and June 30, 1993 (EMERGENCY) (H.P. 1387) (L.D. 1976)

Subsequently, L.D. 1976 was indefinitely postponed. Sent up for concurrence.

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

ORDERS

On motion of Representative GEAN of Alfred, the following Joint Order: (H.P. 1398)

Ordered, the Senate concurring, that Bill, "An Act Relating to the Education of Homeless Students," S.P. 466, L.D. 1249, and all its accompanying papers, be recalled from the legislative files to the House.

Was read.

A two-thirds vote of all the members present and voting to the House being necessary, a total was taken. 95 voted in favor of same and none against, Joint Order (H.P. 1398) was passed and sent up for concurrence.

ORDERS

On motion of Representative KILKELLY of Wiscasset, the following Joint Order: (H.P. 1396)

Ordered, the Senate concurring, that the following bill with all its accompanying papers, which was placed in the legislative file upon adjournment without day of the First Regular Session of the 115th Legislature, be recalled from the file to the House and recommitted to the following joint standing committee of the Legislature:

Joint Standing Committee on State and Local Government

S.P. 42, L.D. 66
RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide State Funding

any Mandate Imposed on Municipalities

; and be it further

Ordered, that this matter be carried over to the next special or regular session of the 115th Legislature.

Was read.

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

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

To Representative Kilkelly, I was wondering why you were having this bill reconsidered now as far as recalling it for holdover rather than a vote, having been on the prevailing side or the majority side coming out of the State and Local Government Committee?

The SPEAKER: The Representative from Paris, Representative Hanley, has posed a question through the Chair to the Representative from Wiscasset, Representative Kilkelly, who may respond if she so desires.

The Chair recognizes that Representative.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: I would be pleased to answer the question from the good Representative. We seem to do this often lately.

It is my belief that in order to address this issue more fully and to address this issue with the time that it truly deserves, and I do believe that it needs more time and under different circumstances than we are currently in, that this bill ought to be recommitted to the Committee on State and Local Government to address issues that need to be addressed further in order to assure its passage. I believe that it is an important issue that ought to be passed and I do not believe that, at this time, it is possible. In order to allow it to continue and to address some issues that other people have raised with me, I believe it is in the best interest of this bill and the best interests of communities in this state to refer it back to the committee.

A two-thirds vote of all the members present and voting to the House being necessary, a total was taken. 88 voted in favor of same and 13 against, Joint Order (H.P. 1396) was passed 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. 1 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Labor and the Committee on Banking and Insurance pursuant to Joint Order H.P. 1382 reporting "Ought to Pass" as

amended by Committee Amendment "A" (H-766) on Bill "An Act to Make Changes in the Workers' Compensation System" (H.P. 1397) (L.D. 1981)

Signed:

Senators: ESTY of Cumberland
KANY of Kennebec
THERIAULT of Aroostook
CARPENTER of York
BRAWN of Knox

Representatives: JOSEPH of Waterville
HASTINGS of Fryeburg
CARLETON of Wells
AIKMAN of Poland
GARLAND of Bangor
PINEAU of Jay
MITCHELL of Vassalboro
LIPMAN of Augusta
RUHLIN of Brewer

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

Signed:

Senator: CONLEY of Cumberland

Representatives: McKEEN of Windham
TRACY of Rome
RAND of Portland
ST. ONGE of Greene
ERWIN of Rumford
McHENRY of Madawaska

Reports were read.

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

Committee Amendment "A" (H-766) was read by the Clerk and adopted.

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

Representative Rand of Portland offered House Amendment "E" (H-772) and moved its adoption.

House Amendment "E" (H-772) was read by the Clerk.

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

Representative RAND: Mr. Speaker, Men and Women of the House: This amendment removes one of the most offensive parts of this piece of legislation and could go a long way toward making life for injured workers (in areas with high unemployment) a lot easier for them. The amendment repeals the statewide work capacity limitation on an employees eligibility for benefits under the total incapacity provision of this Comp Act. The limitation is replaced with one of a reasonable commuting distance from the employee's resident, not to exceed 100 miles one way. The Commission would then be required to consider a variety of factors including the net wages of the prospective employment in determining what is a reasonable commuting distance. This amendment deletes the definition of community that is in the proposed legislation.

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

Representative RUHLIN: Mr. Speaker, I move that

House Amendment "E" be indefinitely postponed.

In a way, this is a little difficult for me as an individual and a member of the Labor Committee. I have always had a great distaste for statewide work search but I am not going to discuss that.

I will discuss generally what is happening with the Workers' Compensation bill that is presently before you in a sense of a statewide work search. There are some things in that bill that I absolutely love and there are things, I am sure, just like every member of the committee who worked on it, that I find abhorrent. However, we sit down and deal in good faith in this organization. It is faulty, believe me, as the process sometimes seems but the key ingredient to that process is your credibility and your ability to keep your good faith. There are parts of this program that I dislike, as I told you, and there are parts of this program that I absolutely feel are going to be a greater benefit to the employers and the employees and injured workers of this state.

I am supporting the bill as a whole, the concept of coming together as a whole, because I feel that balance is tipped to benefit the smaller employers of this state and the injured workers. I would not have ever put my name on any part of it. When it comes to this particular amendment, this amendment would take that whole bill and gut any agreements that have been made. It changes the basic agreement that 23 of us agreed to but those agreements count, they really rely upon our credibility as individuals on going forward in good faith. I fully appreciate the Representative from Portland doing this and I normally would have been up here saying, "This is great." But, if you do this, you accept that, you will be uncrafting something that has been very, very carefully laboriously crafted.

I ask you to please altogether keep faith with the agreement that your committees, under your direction, have worked so hard to achieve. Please vote to indefinitely postpone this amendment.

Representative Tracy of Rome requested a roll call.

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

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

My question is to Representative Rand. Would this reflect the language that appeared in an earlier piece of legislation?

The SPEAKER: The Representative from Waterville, Representative Joseph, has posed a question through the Chair to the Representative from Portland, Representative Rand, who may respond if she so desires.

The Chair recognizes that Representative.

Representative RAND: Mr. Speaker, Ladies and Gentlemen of the House: The answer is yes, it would.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Brewer, Representative Ruhlin, that House Amendment

"E" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 245

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bowers, Butland, Carleton, Cathcart, Coles, Cote, Crowley, Daggett, DiPietro, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gean, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hanley, Hastings, Heino, Hepburn, Hichborn, Jalbert, Kontos, Kutasi, Larrivee, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Mayo, Merrill, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Gara, Ott, Parent, Paul, Pendexter, Pendleton, Pineau, Pines, Plourde, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Ruhlin, Savage, Sheltra, Simonds, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Tardy, Vigue, Waterman, Whitcomb, The Speaker.

NAY - Adams, Anthony, Chonko, Clark, H.; Clark, M.; Duffy, Erwin, Farnsworth, Goodridge, Gray, Gurney, Hale, Handy, Heeschen, Hoglund, Holt, Jacques, Joseph, Kilkelly, LaPointe, Lemke, Luther, Macomber, Mahany, Manning, McHenry, McKeen, Melendy, Michaud, O'Dea, Oliver, Paradis, J.; Paradis, P.; Powers, Rand, Richardson, Rotondi, Saint Onge, Simpson, Swazey, Tamaro, Tracy, Treat, Wentworth.

ABSENT - Bennett, Boutilier, Cahill, M.; Carroll, D.; Carroll, J.; Cashman, Constantine, Dore, Hichens, Hussey, Kerr, Ketover, Ketterer, Lawrence, Marsh, Martin, H.; Mitchell, J.; Pfeiffer, Poulin, Rydell, Salisbury, Townsend, Tupper.

Yes, 84; No, 44; Absent, 23; Paired, 0; Excused, 0.

84 having voted in the affirmative and 44 in the negative with 23 being absent, the motion did prevail.

Representative McKeen of Windham offered House Amendment "A" (H-768) and moved its adoption.

House Amendment "A" (H-768) was read by the Clerk.

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

Representative MCKEEN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is simply an oversight, I believe, in the bill. It simply says that a physician who is acting as an IME shall not have examined the employee at the request of an insurance company for the previous 54 weeks. I simply felt that it would not be fair to have the insurance doctor acting as the IME.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I totally concur with Representative McKeen. Certainly that was not the wish of the people who worked out the settlement on this issue and I would urge your support for this amendment.

Subsequently, House Amendment "A" (H-768) was adopted.

Representative Mitchell of Vassalboro offered House Amendment "G" (H-774) and moved its adoption.

House Amendment "G" (H-774) was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Members of the House: Again, this amendment would make sure that the standards for reimbursement levels would

apply to physicians as well as the health care providers. It was an oversight caused by working much too late.

Subsequently, House Amendment "G" (H-774) was adopted.

Representative Michaud of East Millinocket offered House Amendment "B" (H-769) and moved its adoption.

House Amendment "B" (H-769) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: In case you have forgotten, this bill would require that "the employer shall pay all reasonable expenses incurred by the employee conducting the exploration of the positions on which is listed by the employer." Earlier this body rejected Representative Rand's proposal to do away with the language on statewide search, I think it is only fair that if an employer gives an employee, an injured employee, a list of places for a job that the employer shall pay for the expenses of that employee to hunt for that job. I would hope that you would adopt House Amendment "B."

Subsequently, House Amendment "B" (H-769) was adopted.

Representative Mitchell of Vassalboro offered House Amendment "C" (H-770) and moved its adoption.

House Amendment "C" (H-770) was read by the Clerk.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I do refer you to the Statement of Fact. It clarifies that this Act applies only to injuries after the effective date of this Act.

Subsequently, House Amendment "C" (H-770) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-766) and House Amendments "A" (H-768), "B" (H-769), "C" (H-770) and "G" (H-774) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

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

SENATE PAPER

The following Joint Order: (S.P. 784)

ORDERED, the House concurring, that "Resolve, to Establish the Commission on Electric Utilities and Long-range Energy Production Planning," S.P. 292, L.D. 774, and all its accompanying papers, be recalled from the legislative files to the Senate.

Came from the Senate, read and passed.

Was read.

A two-thirds vote of all the members present and voting to the House being necessary, a total was taken. 84 voted in favor of same and 4 against, Joint Order (S.P. 784) was passed in concurrence.

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

SENATE PAPER

The following Joint Order: (S.P. 783)

ORDERED, the House concurring, that the following legislative documents be recalled from the legislative file of the First Regular Session of the 115th Legislature to the Senate for the pending question:

S.P. 149, L.D. 361
An Act to Expand the Applicability of Certain Energy Standards

S.P. 154, L.D. 366
An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine

H.P. 1166, L.D. 1707
An Act to Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies

H.P. 1210, L.D. 1768
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. 1211, L.D. 1769
An Act to Encourage Business Investments

H.P. 1230, L.D. 1794
An Act to Amend the Minimum Requirements for Emergency Medical Technicians

H.P. 1384, L.D. 1973
An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for the Purchase of Recycling Equipment and Facilities and for the Remediation and Closure of Solid Waste Landfills

Came from the Senate, read and passed.

Was read.

A two-thirds vote of all the members present and voting to the House being necessary, a total was taken. 79 voted in favor of same and 13 against, Joint Order (S.P. 783) was passed in concurrence.

The following item appearing on Supplement No. 17 was taken up out of order by unanimous consent:

ORDERS

On motion of Representative MAHANY of Easton, the following Joint Order: (H.P. 1399)

Ordered, the Senate concurring, that the following legislative documents and all their accompanying papers be recalled from the legislative file of the First Regular Session of the 115th Legislature to the House.

H.P. 319 L.D. 449
RESOLUTION, Proposing an Amendment to the Constitution of Maine Requiring the Governor-elect to Receive More than 50% of the Votes Duly Cast

H.P. 947 L.D. 1369
RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Override of a Governor's Veto by a Three-Fifths Vote

Was read.

Representative Mahany of Easton 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 Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: If you will recall, we have discussed both of these earlier on in the session. I think some of the things that have happened recently indicate how important it is, if our government is going to operate in the context of majority rule, that the Governor-elect receives 50 percent of the votes duly cast or, in one way or another, have a majority mandate because he wields such power that it requires an unusually high number, namely two-thirds vote to override any of his vetoes.

Frankly, I think the two-thirds requirement that hits us between the eyes from time to time here is basically not very democratic, especially when a Governor gets less than 50 percent of the votes duly cast or receives, in no way, a majority mandate, neither a majority mandate by the direct vote of the people nor, that failing, a majority mandate from the body, namely the legislature that reflects the majority will of the people.

The kind of impasse that we have experienced in the last 16 days is directly related to the fact that our government, such as it is presently functioning, does not operate in the context of majority rule. We really need to think on that and think hard about it. I think it is time that we address it, that we state the facts the way they are, namely that we can reach such an impasse, not least of all because of the huge power possessed by our Governor today or by the Chief Executive, that it invites an abuse of the process, a misuse of the power and an outright undemocratic approach to resolving differences. In a democracy, the majority is supposed to rule in terms of passing legislation and I will remind you that in

a parliamentary system, a simple majority suffices. If the Chief Executive does not have the support of the majority of the legislative body, that Chief Executive falls. Here, the way we have dismantled the Constitution originally put into place by the patriot fathers, we have ended up with a system of government which gives the Governor more power than he originally had and sufficient power to frustrate the process, which is very arduous in and of itself, of passing legislation in the legislature and in its two Houses.

Frankly, if a Governor does not receive a majority mandate, we ought to be able to override his veto by a simple majority, that would be the democratic way. Maybe we ought to be able to override his veto by the same percentage of votes in this House and in the other body by which he was elected in any previous elections, General Elections to his being chosen.

There are all kinds of options, ladies and gentlemen, but one thing is certain, it is not fair, it is not democratic, it does not promote the process to mandate that the legislative body raise a two-thirds vote in order to override the Governor's veto, the more so when he himself has not even received a majority mandate. That is the reason I have asked that these two bills be recalled.

The SPEAKER: The pending question before the House is passage. A two-thirds vote of all the members present and voting to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 246

YEA - Adams, Carroll, D.; Cathcart, Chonko, Clark, M.; Cote, Crowley, Daggett, DiPietro, Duffy, Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Hale, Handy, Heeschen, Hogle, Holt, Jacques, Kilkelly, Kontos, LaPointe, Larrivee, Lemke, Luther, Mahany, Manning, Mayo, McHenry, McKeen, Melendy, Mitchell, E.; O'Dea, O'Gara, Oliver, Paradis, P.; Paul, Pineau, Plourde, Pouliot, Powers, Rand, Rotondi, Saint Onge, Simonds, Skoglund, Stevens, P.; Swazey, Tracy, Treat, Wentworth.

NAY - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Butland, Carleton, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gwadosky, Hanley, Hastings, Heino, Hepburn, Hichborn, Ketterer, Kutasi, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, Merrill, Morrison, Murphy, Nadeau, Nash, Norton, Nutting, Ott, Paradis, J.; Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Savage, Sheltra, Small, Spear, Stevens, A.; Stevenson, Strout, Tammaro, Tardy, Vigue, Waterman, Whitcomb.

ABSENT - Boutilier, Cahill, M.; Carroll, J.; Cashman, Clark, H.; Coles, Constantine, Dore, Hichens, Hussey, Jalbert, Joseph, Kerr, Ketover, Lawrence, Lipman, Macomber, Martin, H.; Michaud, Mitchell, J.; Pfeiffer, Poulin, Ruhlin, Rydell, Salisbury, Simpson, Townsend, Tupper, The Speaker.

Yes, 55; No, 67; Absent, 29; Paired, 0; Excused, 0.

55 having voted in the affirmative and 67 in the negative with 29 being absent, Joint Order (H.P. 1399) failed of passage. Sent up for concurrence.

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

(At Ease)

The House was called to order by the Speaker.

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

ORDERS OF THE DAY

BILL RECALLED FROM LEGISLATIVE FILES

(Pursuant to Joint Order - House Paper 1398)

An Act Relating to the Education of Homeless Students (EMERGENCY) (S.P. 466) (L.D. 1249) (S. "A" S-335 to C. "A" S-274)

On motion of Representative Gean of Alfred, the under suspension of the rules, the House reconsidered its action whereby it voted to recede and concur.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1249 was passed to be enacted.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1249 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, Committee Amendment "A" (S-274) as amended by Senate Amendment "A" (S-335) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-335) to Committee Amendment "A" (S-274) was adopted.

On further motion of the same Representative, Senate Amendment "A" (S-335) was indefinitely postponed.

On further motion of the same Representative, Committee Amendment "A" (S-274) was indefinitely postponed.

The same Representative offered House Amendment "A" (H-767) and moved its adoption.

House Amendment "A" (H-767) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-767) in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

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

SENATE PAPER

Non-Concurrent Matter

Bill "An Act Related to the Office of Substance Abuse" (S.P. 90) (L.D. 175) which was passed to be engrossed as amended by Committee Amendment "A" (S-359) as amended by Senate Amendment "D" (S-420) and House Amendment "B" (H-764) thereto in the House on July 16, 1991.

Came from the Senate with that Body having adhered to its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-359) as amended by Senate Amendment "D" (S-420) thereto in non-concurrence.

The House voted to Adhere.

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

SENATE PAPERS

Non-Concurrent Matter

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 Enacted in the House on June 26, 1991. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-498) as amended by Senate Amendment "A" (S-367) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-498) as amended by Senate Amendment "B" (S-452) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Encourage Business Investments (EMERGENCY) (H.P. 1211) (L.D. 1769) which was Passed to be Enacted in the House on June 11, 1991. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-603)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-603) as amended by Senate Amendment "B" (S-445) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Amend the Minimum Requirements for

Emergency Medical Technicians (H.P. 1230) (L.D. 1794) which was Passed to be Enacted in the House on June 10, 1991. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-512)

Came from the Senate, Passed to be Engrossed in non-concurrence.

The House voted to recede and concur.

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

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

SENATE PAPER

Non-Concurrent Matter

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) which was Passed to be Enacted in the House on June 29, 1991. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-690) as amended by House Amendment "A" (H-711) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-690) as amended by Senate Amendment "A" (S-473) thereto 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 PAPERS

Bill "An Act Relating to Average Final Compensation for Purposes of the Maine State Retirement System" (EMERGENCY) (S.P. 786) (L.D. 1982)

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 Aging, Retirement and Veterans.)

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 Amend the Fees for Lobster and Crab Fishing Licenses" (S.P. 787) (L.D. 1983)

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 Marine Resources.)

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

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

SENATE PAPER

Non-Concurrent Matter

An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine (EMERGENCY) (S.P. 154) (L.D. 366) which was Passed to be Enacted in the House on June 12, 1991. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-286)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-286) as amended by Senate Amendment "A" (S-470) thereto in non-concurrence.

The House voted to recede and concur.

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

SENATE PAPER

Non-Concurrent Matter

Resolve, to Establish the Commission on Electric Utilities and Long-range Energy Production Planning (EMERGENCY) (S.P. 292) (L.D. 774) which was Finally Passed in the House on June 10, 1991. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-205) as amended by Senate Amendment "A" (S-220) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-205) as amended by Senate Amendment "B" (S-472) thereto in non-concurrence.

The House voted to recede and concur.

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

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

PASSED TO BE ENACTED

An Act to Eliminate the Lobster Management Task Force (S.P. 365) (L.D. 967) (H. "B" H-765 to C. "A" S-290)

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.

By unanimous consent, ordered sent forthwith to the Senate.

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

ORDERS

On motion of Representative GEAN of Alfred, the following Joint Order: (H.P. 1400)

Ordered, the Senate concurring, that Bill "An Act Related to the Office of Substance Abuse," S.P. 90, L.D. 175, and all its accompanying papers be recalled from the legislative files to the House.

Was read.

A two-thirds vote of all the members present and voting being necessary, a total was taken. 57 voted in favor of same and 22 against, Joint Order (H.P. 1400) was passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

PASSED TO BE ENACTED

Emergency Measure

An Act Relating to Average Final Compensation for Purposes of the Maine State Retirement System (S.P. 786) (L.D. 1982)

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. 104 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 Amend the Fees for Lobster and Crab Fishing Licenses (S.P. 787) (L.D. 1983)

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. 12 was taken up out of order by unanimous consent:

FINALLY PASSED

Emergency Measure

Resolve, to Establish the Commission on Comprehensive Energy Planning (S.P. 292) (L.D. 774) (S. "B" S-472 to C. "A" S-205)

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 17 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

ENACTOR

Emergency Measure

(Failed of Enactment)

An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine (S.P. 154) (L.D. 366) (S. "A" S-470 to C. "A" S-286)

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

Representative Handy of Lewiston requested a roll call vote.

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

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

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

ROLL CALL NO. 247

YEA - Adams, Aliberti, Anthony, Ault, Bell, Carroll, D.; Cathcart, Clark, M.; Coles, Crowley, Daggett, DiPietro, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Hichborn, Hogle, Holt, Jacques, Joseph, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Lord, Mahany, Manning, Marsh, Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Plourde, Pouliot,

Powers, Rand, Richardson, Ricker, Rotondi, Ruhlin, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Stevenson, Swazey, Tamaro, Tardy, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker. NAY - Aikman, Anderson, Bailey, H.; Bailey, R.; Bennett, Bowers, Butland, Carleton, Donnelly, Duplessis, Farren, Foss, Garland, Greenlaw, Hanley, Heino, Hepburn, Ketterer, Kutasi, Lebowitz, Libby, Look, Luther, MacBride, Marsano, Merrill, Nash, Ott, Parent, Pendexter, Pendleton, Pines, Reed, G.; Reed, W.; Richards, Savage, Small, Spear, Stevens, A.; Strout.

ABSENT - Barth, Boutilier, Cahill, M.; Carroll, J.; Cashman, Chonko, Clark, H.; Constantine, Cote, Dore, Hichens, Hussey, Jalbert, Kerr, Ketover, LaPointe, Lipman, Macomber, Martin, H.; Mitchell, J.; Pfeiffer, Pineau, Poulin, Rydell, Salisbury, Townsend, Tupper, Whitcomb.

Yes, 83; No, 40; Absent, 28; Paired, 0; Excused, 0.

83 having voted in the affirmative and 40 in the negative with 28 being absent, L.D. 366 failed of enactment.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Encourage Business Investments (H.P. 1211) (L.D. 1769) (S. "B" S-445 to C. "A" H-603)

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. 101 voted in favor of the same and 21 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 Amend the Maine Uniform Accounting and Auditing Practices Act for Community Agencies (H.P. 1166) (L.D. 1707) (S. "B" S-452 to C. "A" H-498)

An Act to Amend the Minimum Requirements for Emergency Medical Technicians (H.P. 1230) (L.D. 1794)

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 item appearing on Supplement No. 15 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Reduce the Administrative Cost of State Government by Abolishing the Division of Community Services and Transferring its Essential Functions

(H.P. 1210) (L.D. 1768) (S. "A" S-473 to C. "A" H-690)

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

Representative Marsano of Belfast requested a roll call vote.

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

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

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

ROLL CALL NO. 248

YEA - Adams, Aliberti, Anthony, Bell, Carroll, D.; Cathcart, Clark, M.; Coles, Crowley, Daggett, DiPietro, Duffy, Dutremble, L.; Erwin, Farnsworth, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hepburn, Hichborn, Hogle, Holt, Jacques, Joseph, Kilkelly, Kontos, Kutasi, LaPointe, Larrivee, Lawrence, Lemke, Luther, Mahany, Manning, Mayo, McHenry, McKeen, Michaud, Mitchell, E.; Morrison, Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pouliot, Powers, Rand, Richardson, Ricker, Rotondi, Ruhlman, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Spear, Stevens, P.; Swazey, Tamaro, Tracy, Treat, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Donnelly, Duplessis, Farnum, Farren, Foss, Garland, Gean, Greenlaw, Hanley, Hastings, Ketterer, Lebowitz, Libby, Lipman, Look, MacBride, Marsano, Marsh, Melendy, Merrill, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Savage, Small, Stevens, A.; Stevenson, Strout, Vigue.

ABSENT - Boutilier, Cahill, M.; Carroll, J.; Cashman, Chonko, Clark, H.; Constantine, Cote, Dore, Hichens, Hussey, Jalbert, Kerr, Ketover, Lord, Macomber, Martin, H.; Mitchell, J.; Pfeiffer, Pineau, Poulin, Rydell, Salisbury, Tardy, Townsend, Tupper, Whitcomb.

Yes, 76; No, 48; Absent, 27; Paired, 0; Excused, 0.

76 having voted in the affirmative and 48 in the negative with 27 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(After Midnight - 12:07 a.m.)

(At Ease)

The House was called to order by the Speaker.

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

PASSED TO BE ENACTED

An Act Relating to the Education of Homeless Students (S.P. 466) (L.D. 1249) (H. "A" H-767)

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

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

SENATE PAPER

Ought to Pass Pursuant to Joint Order (H.P. 51)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" Pursuant to Joint Order (H.P. 51) on Bill "An Act to Amend Certain Provisions of the Laws Contained in Public Law 1991, Chapter 591" (EMERGENCY) (S.P. 788) (L.D. 1984)

Came from the Senate, with the report read and accepted and under suspension of the rules, the bill read twice and the bill passed to be engrossed.

Report was read and accepted.

Under suspension of the rules, the Bill was read twice and passed to be engrossed in concurrence.

The following item appearing on Supplement No. 26 was taken up out of order by unanimous consent:

ORDERS OF THE DAY

BILL RECALLED FROM LEGISLATIVE FILES

(Pursuant to Joint Order - House Paper 1400)

Bill "An Act Related to the Office of Substance Abuse" (S.P. 90) (L.D. 175) (S. "D" S-420 to C. "A" S-359)

Subsequently, the House reconsidered its action whereby it voted to Adhere on L.D. 175.

Thereupon, the House voted to recede and concur.

By unanimous consent, all matters having been

acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

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

PASSED TO BE ENACTED

An Act Related to the Office of Substance Abuse (S.P. 90) (L.D. 175) (H. "B" H-764 and S. "D" S-420 to C. "A" S-359)

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. 23 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend Certain Provisions of the Laws Contained in Public Law 1991, Chapter 591 (S.P. 788) (L.D. 1984)

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.

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

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Make Changes in the Workers' Compensation System" (H.P. 1397) (L.D. 1981) which was passed to be engrossed as amended by Committee Amendment "A" (H-766) and House Amendments "A" (H-768), "B" (H-769), "C" (H-770) and "G" (H-774) in the House on July 17, 1991.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-766); House Amendment "A" (H-768) as amended by Senate Amendment "A" (S-477) thereto; and House Amendments "B" (H-769) and "G" (H-774) in non-concurrence.

Representative Gwadosky of Fairfield moved that the House adhere.

Representative Hastings of Fryeburg moved that the House recede and concur.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I am troubled and I am sure all of us are concerned that we wait until three o'clock

in the morning or nearly so to vote on some particular bill which has become very, very emotionally wrought and which has great significance to the state. Yet, we must not stop to think about those who, in the process, have been hurt, have been worn down, who have fallen (literally) because of the energies expended in this House by all of its members in support of the State of Maine.

I call to your attention the good Representative, Representative Pineau, who earlier, as a member of both the Banking and Insurance Committee and the Labor Committee, has been involved a long time in support of this bill. But, we must remember that each one of us are human beings, that we are not infallible people. We are not the Solomon's of the world, we are as we are, each and every one of us, simple, and I am sure in our heart of hearts, honest people.

The particular bill which I rise to recede and concur on has had such a great amount of discussion, debate, acrimony, that it seems ridiculous to many that it even appear before us tonight. I listened to some parts of this debate in the other body and heard all the concerns as to how we got here today. Yet, good people, you must remember that we didn't invent the process, we are part of the process. Perhaps, today at least, in the fall of Representative Pineau, that makes us more aware than ever.

The SPEAKER: The Chair hates to interrupt the Representative but please refer to the question before us which is the motion to recede and concur.

The Representative may continue.

Representative HASTINGS: Mr. Speaker, I think that the direction that I am taking it leads...

The SPEAKER: The Chair would appreciate it if you would get there sooner rather than later.

Representative HASTINGS: I would certainly appreciate that myself at this hour.

What we have on the plate tonight, folks, is what all of us have been talking about, having letters sent to us about, receiving telephone calls about and yes, influenced in every way imaginable. Good people, I tell you that tonight, this bill that we are asked to recede and concur on by the motion I presented to you, is not the perfect bill. There are those who would change its character, they will argue and have argued up and down the halls, as have I this evening, with different people as to what the significance this bill is and the various amendments.

I will not bore you. I hope that you will forgive me if, in any way, I carry too long to tell you a little bit about what I think is going on.

We have before us this bill, it is a result of a committee working out the process of this bill, a committee of 23 people of this body and the other body. It was crafted with hours and hours and hours of deliberations and debate and finally language that even came down to commas and they yelled about the lawyers being involved and they yelled about the lobbyists being involved and this interest and that interest. Finally, this committee today or yesterday voted by its order 15 to 7 to support the Workers' Compensation bill and it was not going to see (as I understood it) any changes. We have seen changes on the floor and you have seen the various amendments that have been put on in the other body and on the House and you have seen the various amendments on your desk to change it.

I don't pretend it is a perfect bill, but this bill tonight is the bill that has been crafted by the

committee in its process, that it be changed now further than it already is, is a discouragement to those who participated in the process.

I don't really have a lot to give to this state other than time. I think the committee members would feel the same way. Yet tonight, I see things going on to change the bill and its character, to change the bill as we see it having been crafted by the 15 people who supported it and by the 23 people who worked for it. I include all who worked for it for I believe there was good faith in the exchange of ideas. Those, in many ways, are incorporated in the bill. I am not unaware of their particular philosophies that prevent them from voting for it. But tonight, in the hours which are early, preceding the dawn, you have the opportunity to make your statement to the State of Maine. I suggest we do it quickly and I urge you to join in the motion.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I urge you to vote against the motion to recede and concur. I will speak very briefly.

Representative Hastings has talked about a committee process. I must admit that that committee process is more tortured than any committee process I have ever seen in this legislative body because we have an extraordinarily difficult task. Yes indeed, it is a very emotional and sometimes very divisive issue that we are trying to come to grips with to solve a very important problem for the State of Maine.

You have on your desk a bill — and that is what we are going to be talking about and have been talking about — but I want you to know that this committee process produced this bill of 62 pages that the committee members themselves only saw for the first time this morning. Now a process is not so sacred that, when the members of this body are reviewing a bill and they have honest differences of opinion, they are certainly encouraged to voice those, to offer them through the true process to their amendments. I think that is what you have seen taking place today. I think if they did not do that, they would be remiss in their responsibilities as elected Representatives.

What is being referred to here today, the amendment that is coming back, one was stripped in the other body. It was an amendment that I offered in this House. I think it points out the very confusing way that this bill was crafted and the mistakes that are probably in it.

Unlike Representative Hastings, I have not been to law school. I did not realize that, without expressly stating in the statutes that the procedures in the Workers' Compensation Act, if you do not expressly say that this new act was not retroactive for procedures and not just benefits, that would not happen. Whether it is Workers' Compensation or retirement system benefits or any other thing — frankly, as a legislator, my fundamental philosophy has always been, when you change the rules, you change them forward and not backward. This was not an attempt to go around what we had tried to work on and compromise (in a very miserable situation) but rather an attempt to correct what I saw as a fundamental deviation from my understanding.

This morning or yesterday morning as we talked about this very issue, because Representative

Hastings had attempted to deal with the retroactive positions for insurance and of course we are now talking about procedures for the labor side of the issue, we did not put it on because many of us were not fully aware and we asked the technical assistant, Martha Freeman, what did it mean? Of course the answer came back to us that this bill is effective 90 days after this legislature adjourns. Those of us who were lay people understood that to mean that everything was from the point of its effective date and we didn't even have to worry about that. So, I want everyone in here to understand that this is simply an honest misunderstanding but never, ever would I have supported the position thinking that I was going to take away procedures or benefits retroactively. I don't believe that the members of my caucus would have done so either. I think it is very important that you understand this issue. You are not voting against a Workers' Compensation reform package if you vote against the motion to recede and concur. If you vote to adhere, you will stick with your position to say it is only fair to treat people forward and not change the rules for those people who are already involved in the system.

I would encourage you to vote against the motion to recede and concur.

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

Representative LIPMAN: Mr. Speaker, Men and Women of the House: I rise to discuss where we are tonight. I do so after being here until four o'clock in the morning the last two days and now it is three o'clock this morning and I do so very wearily. The process has worn me down, it has worn you down. The process has come to a point, where last night at three o'clock in the morning we had all, I believe, come to a position that enough was enough, this was it, the last negotiating point was made and it was a "take it or leave it" situation. A decision was made and that was supposed to be the cutoff point.

This morning, we became aware that an innocent error had been made. So, it was agreed that there would be an amendment in the committee. Again, it was done in good faith, the negotiating teams met and the leaders met and that was done. We then go to the committee process. The bill is discussed in committee, the drafts were there and the majority supported the bill. We come here and we now have amendments. We have amendments as to what procedures will take effect now, what procedures will take effect later. We have amendments on other issues. I can assure you that there will be amendments and amendments and amendments and, if we come back here in a special session or in January, there will be more changes because this is a very comprehensive bill and it is to be anticipated. But, at some point in time, we have to say, enough is enough. We passed the bill and then we come back and fix whatever has to be fixed.

To specifically address what the good Representative from Vassalboro has said in regard to making procedural rules take effect immediately and substantive rules take effect with the occurrence — what this bill does, if we recede and concur, it means that the procedural rules take effect immediately. That means, if you have been waiting a year and half or two years for a hearing, you get it in an expedited basis. The procedural rules that take effect immediately don't always hurt the employee, they help.

In this bill, we have a trial work period. Everyone gets 15 days trial work period. That is a plus. We have incentives to bring employers and employees together instead of dividing them. That is procedural. We have safety incentives to create safety in the workplace. We have all kinds of things that are geared to take place immediately.

In regard to areas that include substantive changes, whether it be in the work search and other areas, then that should take place after the bill becomes effective for injuries that occur at that time.

The law provides, in the absence of a designation, and that is something that was discussed, the procedure takes place upon the law becoming effective and substance takes place with the injury.

I can assure you — you have seen the number of amendments, there can be more amendments. When we sat there, we thought of many things that we should have discussed and things that we would have liked to have fixed, but we are going to have to come to some point in time where we say, let's let this law have its day and let's come back and fix all the things that have to be fixed.

I ask you to vote to recede and concur.

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 remind the good Representative, Representative Lipman of Augusta, that this is a political process and Representatives have the right to put amendments on bills.

Furthermore Mr. Speaker, I would request the yeas and nays when the vote is taken.

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 Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, I rise only to address the issues that were raised by the good Representative Mitchell. This bill only applies to injuries that occur after its effective date. This retroactivity that everyone has been yelling about in the halls, I want you to know, it only applies to rules. It does not take away any substantive rights of anybody who is already in the Workers' Compensation system. People will argue and argue as to, what does that really mean? I know that people are very, very concerned because there is within this bill a statewide search or job search as it is called. There is within this bill called automatic discontinuances. I know that people are concerned because there are caps on attorney fees. I know that they are concerned in this bill because it applies to the use of independent medical examiners. Many of these are procedural parts to the bill, but if they are good for injuries of people who apply in the future, why aren't they good for everybody?

When other systems put in their rules, they put them in to apply across-the-board. We have done it before, we did it in 1983 and 1985. When you passed

Workers' Compensation in this House, it was passed without any concern that the rules did not apply sometime in the future only to those accidents that are happening in the future, it applied across-the-board to all those existing cases.

Now to say that we can't do that, shouldn't do it, that somehow it affects somebody in an adverse way, seems very strange. It is not taking away rights. It is a system that we are trying to reform which has failed. We are not eliminating any vested or substantive rights of any worker. Sure, the rules are changed. Sure, there is a trial work period. Sure, there is a limitation on attorney fees, on lump sum payments. Sure, there is medical reports that have to be made. There are protections for workers on reinstatement that are broadened. There are all of these different rules that go into effect and just because people keep yelling about the statewide job search, it does not mean that it and of itself is wrong. It can be beneficial. The system has failed. Either you want to fix it or you don't. Rather simple. I urge you to continue to vote for the motion to recede and concur.

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

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I would like to remind all of you that rules, once they go into effect, often have the value of law. I think you should all be aware also that, during the negotiations, retroactivity came up several times. In one case and one case only, a very narrow case, involves an Ashby, a law case, we thought that retroactivity was perhaps the right thing to allow in that case to prevent future costs. All other times during the negotiations, we absolutely refused to accept the principle of retroactivity. It is morally wrong and represents a windfall profit for the insurance companies. I want to explain how that would work. If you had an injured worker, say in 1985, the insurance companies would look at that claim and say this is going to cost us \$10,000 a year and it is going to be ten years duration because of maximum medical improvement at that time and the wage replacement indemnity so we will have to set aside \$100,000. They set aside the \$100,000 in the reserve set asides and then along comes this new law that probably will allow them to do some automatic discontinuances so they save a certain amount of money if you allow this to become retroactive. That money that they save, they then, because of a certain amount of injured workers, will receive automatic discontinuances. If you have 100 of them and ten percent of them receive automatic discontinuances, then that means you save ten percent. That ten percent (in this case) will go directly as a windfall profit into the pockets of the insurance companies. So, not only is it morally wrong, it is a windfall profit.

The other thing I want to bring up to you tonight is that this House should protect its position. We had the position that we would adhere. It was a position we gained honestly, that we discussed honestly, that the negotiators felt that they were keeping good faith. There are many other amendments before us tonight that I don't want to discuss at this late hour. As a negotiator, I will be voting against all of them that I am aware of. I welcome them as good intentions. There are a lot of ideas that are in there that we tried to work through in the negotiating process and they didn't work out. We

will address those at a proper time. This particular motion is to recede and concur. The motion that protects the position of this House is to adhere. I hope you will join me in defeating the recede and concur and go on to adhere.

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

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

Maybe someone can help me, on Page 61 of the bill, Section D26, maybe someone can clarify the statement dealing retroactively which is approximately the fifth line and it says, "to employees injured on or after the effective date of this Act and retroactively to employees injured before the effective date of this act." Is this the phrase that people are concerned about and what does that sentence mean?

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 Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: In answer to the question, the particular provision on Page 61 under Section D26 applies to the Ashby case that was referred to by Representative Ruhlin. That is a very narrow case that was particularly discussed in the committee and after a great deal of concern by its members, they put in this provision that the application of the Ashby case which was an item if you recall by the actuaries not to affect current rates but future ones, would be put into effect back to the time of the case itself in 1989. That only applies to the expansion as made by a court ruling to what was "the average weekly wage of an individual" and it applied in a very, very narrow scope actually, only to those situations where there were funds being paid by the employer in behalf of his employees to a union which then used that money to buy fringe benefits for the workers. Certainly the 15 members supported it, the others of the committee who voted against the bill, I suppose it is unfair to say that they support that at all.

It is not the issue that is being discussed tonight. The issue that is being discussed tonight has to do with whether or not the rules that are in effect throughout this bill, such as "medical reports, the use of automatic discontinuances" rather than filing petitions as you now have to do, "fixing of fees on lump sum settlements for attorneys", the use of the provisions in the bill on safety. These are rules and it is those rules whether they apply on October 18th when the bill becomes effective or do they apply only to cases or injuries and events in the system that happen after October 18? It may sound complex but, believe me, the way courts have operated in this state for generations is that, when they put in their rules, they apply across-the-board. That is what we are asking you to do tonight. We are not taking away substantive rights of any worker.

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

Representative ANTHONY: Mr. Speaker, Men and Women of the House: I will be very brief. I have not been involved in the negotiations on this but I am struck by the fact that if we were to make this

retroactive, two things seem to jump out at me. First of all, I can't imagine how this could save anything as to rates, that has already been brought out by Representative Ruhlin. I think if the goal is to try to save money for the businesses of our state, I can't imagine how making this retroactive would do that in any way.

Second is the confusion that people would feel if they were out on Comp and the rules change but they are not notified that the rules change, what they are notified of is that suddenly they get a certified letter about jobs that they have to apply for or other things because of the change in the rules they would start getting new forms that they weren't advised about in any way when they first go in on Comp. I can only imagine a great deal of confusion and a huge flood of cases for the Workers' Compensation Commission.

I would urge voting against the recede and concur motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Hastings of Fryeburg that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 249

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Marsh, Merrill, Murphy, Nash, Norton, Nutting, Ott, Parent, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Ricker, Savage, Sheltra, Small, Spear, Stevens, A.; Stevenson, Strout, Tardy, Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Carroll, D.; Cathcart, Clark, M.; Coles, Daggett, DiPietro, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hogle, Holt, Jacques, Joseph, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Mahany, Manning, Mayo, McHenry, McKeen, Melendy, Michaud, Mitchell, E.; Morrison, Nadeau, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Powers, Rand, Richardson, Rotondi, Ruhlin, Saint Onge, Simonds, Simpson, Skoglund, Stevens, P.; Swazey, Tammaro, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

ABSENT - Boutilier, Cahill, M.; Carroll, J.; Cashman, Chonko, Clark, H.; Constantine, Cote, Crowley, Dore, Hichens, Hussey, Jalbert, Kerr, Ketover, Macomber, Martin, H.; Mitchell, J.; Pfeiffer, Pineau, Poulin, Pouliot, Rydell, Salisbury, Townsend, Tupper.

Yes, 55; No, 70; Absent, 26; Paired, 0; Excused, 0.

55 having voted in the affirmative and 70 in the negative with 26 absent, the motion did not prevail.

Subsequently, the House voted to Adhere.

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. 30 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

An Act to Appropriate Funds for a Study of the Effectiveness of Education Reform in Maine (EMERGENCY) (S.P. 154) (L.D. 366) (S. "A" S-470 to C. "A" S-286) which failed of passage to be enacted in the House on July 17, 1991.

Came from the Senate passed to be enacted in non-concurrence.

The House voted to Adhere.

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

ENACTOR

(Reconsidered)

An Act to Make Changes in the Workers' Compensation System (H.P. 1397) (L.D. 1981) (C. "A" H-766; H. "A" H-768; H. "B" H-769; H. "C" H-770; H. "G" H-774)

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

On motion of Representative Michaud of East Millinocket, the House reconsidered its action whereby L.D. 1981 was passed to be engrossed.

The same Representative offered House Amendment "J" (H-778) and moved its adoption.

House Amendment "J" (H-778) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope you would support House Amendment "J." The purpose of this amendment, as we have heard, this bill save 26 percent. As you know, there is supposed to be a rate increase in Workers' Compensation of 14 percent in September. This amendment will freeze that rate increase.

Back in 1987, the benefit of the injured workers were cut by 41 percent. Despite the cuts in the benefits, the insurance companies were granted an increase. I think this is a fair amendment if what everyone has been saying about this Workers' Compensation package that it will save 26 percent, then I think it is only fair that the employers in the State of Maine will realize some benefits. This amendment will do that.

Mr. Speaker, I request a roll call.

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

Representative RUHLIN: Mr. Speaker, Men and

Women of the House: My interpretation of this very well meant amendment to the bill before you is that it amounts to a freeze. We did not undertake this very torturous, tedious task to settle for a freeze. We undertook this task to get a rollback and save the employers of the State of Maine money, to protect the workers of the State of Maine and create more jobs in the State of Maine. I don't want a freeze. I anticipate a rollback. We spent many hours (some of the negotiators) in the last few days and especially last night trying to craft a part of that bill that would effectively give a rollback to the rates. We tried this idea, we tried that idea. We tried going back to previous law. We went back to the history of previous attempts to create rollbacks. What is in the bill at the present time says that the Superintendent of Insurance shall report to this legislature and that any rate hearings or proceedings subsequent to the passage of this bill will reflect the intentions of this bill. As I already said, they will report to this legislature and I expect if any future rate proceedings do not reflect the intentions of this legislation and the price savings that are in this legislation, I would hope that all the members of this House would feel an honest right to thoroughly erupt with anger and take the necessary corrective action. Therefore, I feel that this particular amendment is, although well-intended, is not necessary at this point.

I would move the indefinite postponement.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I haven't spoken on this bill, in fact I have been quiet through the whole process of the last three or four weeks. I have a great deal of problems believing in this point system to begin with. I have a great deal of problems believing that an in-house actuary is giving us the point worth that is really in this bill. I think that is the essence of this amendment, that we know at least and it says in this amendment that it is at least a minimum of 14 percent. That doesn't mean it can't be greater, it just means it can't be less.

I would hope that if you believe that, say an independent medical examiner is appointed by the Governor that is worth two points and that that same independent medical examiner is appointed by somebody else that it is worth no points. You have to believe that who is giving us the points and the actuary in the House can be whatever somebody wants him to be and can project whatever somebody else wants him to project.

I would honestly ask you not to indefinitely postpone this amendment but pass it.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: This amendment does prohibit the 14 percent from going into effect but, if this bill provides 26 percent or more savings, they can roll it back.

Mr. Speaker, I request a roll call on indefinite postponement.

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 Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: In response to the comment by Representative Ruhlin that, if the rates do not drop, we should erupt with anger, I guess my response is, I am erupting with anger right now because the rates were promised to drop in 1987. The benefits were cut then by 41 percent and the rates have gone up 66 percent since then. This 14 percent that is proposed is on top of that. This is the same superintendent of insurance that just told us a few weeks ago that our state plan would add 16 percent and now he says it would be zero increase. I think given the fact that this administration has changed its view of the evaluation of these points consistently and the fact that this entire process, so-called, has happened based on these points. If these points are worth shutting down state government and these points are worth what it has done to peoples lives, I think this amendment, of all of them, is the mildest that has been offered and I hope we will vote not to indefinitely postpone.

The SPEAKER: The pending question before the House is the motion of Representative Ruhlin of Brewer that House Amendment "J" (H-778) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 250

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Butland, Carleton, Carroll, D.; Cathcart, Daggett, DiPietro, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Gwadosky, Hastings, Heino, Hepburn, Jacques, Joseph, Ketterer, Kontos, Kutasi, LaPointe, Larrivee, Lebowitz, Lipman, Look, Lord, MacBride, Marsano, Marsh, Mayo, Merrill, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, O'Gara, Ott, Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Ricker, Ruhlin, Savage, Simonds, Simpson, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Tamaro, Tardy, Vigue, Waterman, Whitcomb, The Speaker.

NAY - Adams, Anthony, Clark, M.; Coles, Duffy, Erwin, Farnsworth, Gean, Goodridge, Graham, Gray, Gurney, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Kilkelly, Lawrence, Lemke, Luther, Mahany, Manning, McHenry, McKeen, Melendy, Michaud, Nutting, O'Dea, Oliver, Paradis, J.; Powers, Rand, Richardson, Rotondi, Saint Onge, Skoglund, Swazey, Tracy, Treat, Wentworth.

ABSENT - Boutilier, Cahill, M.; Carroll, J.; Cashman, Chonko, Clark, H.; Constantine, Cote, Crowley, Dore, Hanley, Hichens, Hussey, Jalbert, Kerr, Ketover, Libby, Macomber, Martin, H.; Mitchell, J.; Pfeiffer, Pineau, Poulin, Pouliot, Rydell, Salisbury, Sheltra, Townsend, Tupper.

Yes, 80; No, 42; Absent, 29; Paired, 0; Excused, 0.

80 having voted in the affirmative and 42 in the negative with 29 absent, the motion to indefinitely postpone did prevail.

Subsequently, the Bill was passed to be engrossed as amended.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I request a roll call on enactment.

I would like to pose a question through the Chair. In reading on Page 22, the light duty work pool, it says "employers may form light duty work pools for the purpose of engaging return to work for an injured employee." My question is, if an employee is injured in a paper mill and he has an agreement with a contractor separate from that paper mill and he subsequently gets hurt on that job, who is responsible for that injured worker? Is it the first employer or the second employer?

The SPEAKER: Representative Michaud of East Millinocket 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, Men and Women of the House: As I understand the question, if a worker was injured at the first job and then took a light duty assignment at a different employer and was subsequently injured, there is what we call the apportionment process where the first employer is responsible for the first injury and the second employer would be responsible for the second causally-related or work-related injury.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I have a couple of additional questions I would like to pose.

I know one that was very upsetting to Representative Pineau in that he had heard that insurance companies are stopping lump sum payments in hopes that this bill will pass and, therefore, will not be issuing any more lump sum payments. Is that a true assessment?

My next question is, if an injured worker under the current Workers' Comp happens to get hurt in a paper mill, loses both arms, he is currently eligible for lump sum payments for losing those two arms, I believe it is \$400 a week, roughly \$300,000 under this package, what would that individual be eligible for?

The SPEAKER: The Representative from East Millinocket, Representative Michaud, has posed a question 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 the good Representative's second part of his question and that refers to what we call impairments, loss of body parts and, in the past, there has always been a pure financial settlement for the loss of any body parts. That is separate, aside from the wage loss indemnity that is paid. So, if an injured worker, in the past, has lost a finger, he would receive cash for the finger (I would rather keep the finger but that's that way it works) and then whatever the wage loss, he would receive the standard two-thirds of the wage loss for the time that he was out of work.

Under the new law, it is proposed that that person would receive money for the loss of the finger

but that would be offset by the amount of weekly benefits that they receive. So, the net would be that the person would receive their weekly benefits for wages lost. I hope that answers the question.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I would like to pose another question.

So, doing a quick calculation, if someone is hurt and loses both arms, he currently is eligible for \$300,000 lump sum on a \$400 a week job. In quick assessing, that under this package, he would only be eligible for a \$132,000 lump sum?

The SPEAKER: The Representative from East Millinocket, Representative Michaud, has posed a question 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: That question is a little different than I understood it and I apologize for that.

If the good Representative is making reference to lump sum payments, lump sum payments would still be available and the value of those lump sum payments would be based on the wage loss. I would like to use that Representative's example, if you lost two arms, you probably would be 100 percent incapacitated for work purposes and the person would receive 100 percent of their future earnings at the two-thirds level.

I hope that answers his question.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, I move the indefinite postponement of this bill and all accompanying papers.

Mr. Speaker, I would request a roll call.

Ladies and Gentlemen of the House: For a couple of reasons, there are a couple of things that gives me very serious pause about supporting this bill and really forces me in conscience to vote against it.

First of all, as has already been mentioned or alluded to, both in this body and the other body by those who participated in the recent discussions, what has emerged here has emerged out of a state of tremendous pressure and, obviously, some confusion. We have been presented the printed bill, which is very long and very complicated and very involved, only today.

I personally have not had enough time to examine, scrutinize and digest this bill and to draw my own conclusions about it. Ultimately, in a matter as involved and complicated as this, the person that I have to fall back on and believe and be convinced by is myself. I am not convinced. I will remind everybody here that I did not enter into any agreement with anybody.

The other thing that gives me pause is how we got here. First of all, this House and the other body passed a bill, a Workers' Compensation bill was passed by this legislature, and in this House that bill, L.D. 1957, got a sizable majority, namely 89 for, only 56 against. What happened? The Governor proceeded to veto and then he proceeded to link Workers' Compensation with the budget. What that means, ladies and gentlemen, is this, (as I see it) the Governor created a crisis with the support of the

Minority Party. He then declared a state of emergency and then proceeded to shut down state government, holding the budget and state government hostage for two working weeks, minus two days while he tried to get his own way on a whole separate issue from the budget.

Men and Women of the House, anything borne out of such a situation, a created and manufactured situation, ought to be killed outright because it shows such disrespect for the process. I have heard the word "process" mentioned here on several occasions tonight — what process? Whose process? Not to kill a piece of legislation that has evolved in the way this one has, after the end of the fiscal year, is to condone the linkage of non-relevant issues to the budget, is to condone that linkage, if not actively, then passively or by inference and not to kill this bill is to accept the setting of a precedent of linking non-relevant issues to the budget and to accept all the consequences and abuses which result from that ill-advised precedent.

I think of the future — what will the non-related issue be, which will be linked to the budget, the next time around and the time after that and the time after that...?

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: A point of inquiry? Are we discussing and debating the budget and the Governor's handling of it or we debating Workers' Compensation?

The SPEAKER: The Chair would advise the Representative from Berwick that we are in fact debating Workers' Compensation. The Chair would ask the Representative from Easton, Representative Mahany, to restrict her remarks to Workers' Compensation or the lack thereof.

Representative MAHANY: Thank you, Mr. Speaker. For all the reasons mentioned, I urge you to indefinitely postpone this bill and all of its accompanying papers. There is a whole lot in the bill that we should not be supporting, in my judgment. Frankly, I think all those who voted for L.D. 1957 which passed this House ought to vote against this one.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank the members of the Banking and Insurance Committee and the Labor Committee for all their very hard work on this bill and I note that they all seem to be in agreement that some parts of this bill are very hard to swallow and parts of it are very good. I think that can probably be said about everything. I accept your bill, the parts of it that are very good but the parts of it that are very bad make it impossible for me to vote for this bill. The automatic discontinuance, the independent medical examiners, the question of whether or not employers will ever really see any savings. What bothers me the most is the statewide search. For a state the size of Maine to seriously force on injured workers to do a statewide search is simply cruel.

I have heard it said here over and over that compromise is the art of politics but I ask you, what is the art of government? Surely, the test of government are integrity and commitment to justice. The problem I have with compromise is that it so often looks just like a sellout.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important as we get ready to vote that you all remember, this particular piece of legislation I feel does have flaws but the injured workers of the State of Maine, who we have all kept upper most in our mind here, will have improved benefits. The delivery of those benefits will be greatly enhanced. There will be pass-throughs of cost savings or else. And, those those pass-throughs will create new jobs in a time when we need new jobs in this state. I think those are the keys.

This bill and the torturous process by which we came to this moment has been very difficult for all of us, but this bill is a response to the major problems facing the State of Maine this year. We have had problems in other areas and this problem has been allowed to grow over the years, the time for a solution is here. This bill, by itself, is not going to be carved in granite, we are going to have to continue to address the Workers' Compensation problem in the State of Maine, we are going to have to do it at least annually. There are greater cost savings, there is still price gouging going on among the insurance companies but we can settle this one step at a time. This is a good first step on a journey yet to be finished. I hope you will vote against the indefinite postponement motion.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: For the Record, I want to make it very clear that I, too, am in favor of Workers' Compensation reform if it is really reform. I realize and appreciate all the efforts that have gone into trying to come to some kind of an agreement in the past couple of weeks but for reasons already indicated, I really cannot accept the results.

I think we are not forced to pass a Workers' Compensation bill, a reform bill, tonight. The world is not going to come to an end if we do not pass this tonight. We have time to pass a better bill, one more in tune with the majority will of this legislature, remember that. You are not forced, this isn't the end of the world, we can do it later, next month, the month after, we don't have to do it tonight.

I am sick and tired of the majority will of this legislature being frustrated by vetoes. I would think that you would be sick and tired of it too.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: Since the majority of this body has voted against an amendment that would guarantee a minimum amount of savings to the employers of this state who are currently facing drastically high levels of Workers' Compensation costs, I am moved to question how much savings are really going to be realized in this piece of legislation and who is going to benefit?

I would like to pose a question through the Chair. How much of the projected savings will be going to the insurance industry?

The SPEAKER: Representative Treat of Gardiner 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, Men and Women of the House: I apologize to the good Representative, I didn't hear the question and I don't see anybody else who is going to respond at this moment. I would like to try to respond if I could have the question repeated.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: My question was, since the majority of this House seems to be uncomfortable in putting into the bill a minimum amount of savings and yet the bill promises 26.5 percent savings, who is going to benefit, how much of the benefit will be going to the insurance industry?

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

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I will try to respond to the good Representative. There is a rate process that has to go through. I am not sure anybody has really touched on how that process works and why it is difficult to pin down a specific figure. We spent, three or four of us last night off and on, many hours trying to word, smith and craft something to guarantee a certain amount of pass-through. We started out working with figures. As a matter of fact, we were handed a draft that had a percentage and a blank space and you kind of like filled in the space. But, when you look at the thousands of classifications for jobs in the State of Maine and some of those jobs are — and these are classifications for Workers' Comp rates — some of those jobs reflect what happens in the lumber industry, some of those jobs reflect what happens in the clerical industry, some of those jobs may involve driving a truck down the road. The safety rate and the rate of accidents varies from job to job. What this particular piece of legislation will do, it will affect the person in the lumber industry cutting a tree down or trucking it over the highway, differently, both of those individuals will be impacted differently as individuals and in their occupations as individuals from each other. The same would be true of somebody in the clerical industry.

In this particular piece of legislation, there is something aimed particularly at the logging industry recognizing that it is sometimes 52 cents and 53 cents on the dollar, more of that going to premiums. If you are in the lumbering industry, you probably are going to receive benefit cuts more than the other people will receive because of that precise and an actuary would look at that particular job classification and will say, here, because of what this particular piece of legislation, the way the laws in Maine now operate, you will receive — your rate actually will be less than it has been in the past.

In the clerical field, I don't see an awful lot in here other than speeding up the process and that is usually like 46 cents on the hundred dollar rate, the rate was so low. I expect that probably there will be a lesser percentage of lowered rates in that case. So, we found last night (in trying to continue my response to the good Representative) that it was difficult to come out with a percentage point. What we had to ensure though was that those rates be reflected in the pass-through and we felt the best way to do that was to insist that the Superintendent make that report to the legislature in any subsequent

rate case. I hope that answers her question.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Treat.

Representative TREAT: Mr. Speaker, Men and Women of the House: I very strongly support Comp reform. I, too, have been hearing from businesses in my district that are very concerned about the costs that they have to pay. Right now, the insurance industry is making about a 50 percent profit and about 91 percent of the employers in Maine are serviced by insurance companies that are making about 50 percent profit. That is a conservative estimate that comes out of the Public Advocate's brief that was filed in the pending rate case.

I am concerned that without specific language in this legislation that targets those savings towards the employers, which is where it is supposed to be going, that we are simply going to be increasing the profits of the insurance industry which is precisely what happened with the previous, so-called reforms in 1987. For this reason, among others, I am very concerned about this piece of legislation because I simply don't think it is going to do the job it is supposed to. I will be voting for indefinite postponement.

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 Mahany of Easton that this bill and all accompanying papers be indefinitely postponed.

The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Cote of Auburn. If she were present and voting, she would be voting nay; I would be voting yea.

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

Representative HANDY: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Boutilier of Lewiston. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Coplin Plantation, Representative Powers.

Representative POWERS: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Macomber of South Portland. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Clark of Millinocket. If he were present and voting, he would be voting yea; I would be voting nay.

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

Representative MORRISON: Mr. Speaker, pursuant

to House Rule 7, I request permission to pair my vote with Representative Chonko of Topsham. If she were present and voting, she would be voting yea; I would be voting nay.

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

Representative WENTWORTH Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Constantine of Bar Harbor. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is the motion of Representative Mahany of Easton that this bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 251

YEA - Adams, Duffy, Erwin, Farnsworth, Goodridge, Gray, Hale, Heesch, Hoglund, Holt, LaPointe, Lemke, Luther, Mahany, McHenry, McKeen, Michaud, Oliver, Paradis, J.; Rand, Saint Onge, Tracy, Treat.

NAY - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Butland, Carleton, Carroll, D.; Cathcart, Coles, Daggett, DiPietro, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gean, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hanley, Hastings, Heino, Hepburn, Hichborn, Jacques, Joseph, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lebowitz, Lipman, Look, Lord, MacBride, Manning, Marsano, Marsh, Mayo, Melendy, Merrill, Mitchell, E.; Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, O'Gara, Ott, Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Savage, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Cahill, M.; Carroll, J.; Cashman, Crowley, Dore, Hichens, Hussey, Jalbert, Kerr, Ketover, Libby, Martin, H.; Mitchell, J.; Pfeiffer, Pineau, Poulin, Pouliot, Rydell, Salisbury, Sheltra, Townsend, Tupper.

PAIRED - Boutillier, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Graham, Handy, Macomber, Morrison, Powers, Wentworth.

Yes, 23; No, 94; Absent, 22; Paired, 12; Excused, 0.

23 having voted in the affirmative and 94 in the negative with 22 being absent and 12 having paired, the motion to indefinitely postpone did not prevail.

The SPEAKER: A roll call has been requested on enactment. 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 Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I have remained quiet on this issue long enough. I just want to state that the good Speaker and our leadership have fallen through with the memorandum of agreement, even if the Republicans did not, they went through with what the

bargain was.

As I have seen through my life as a shop steward and as a Chair and as a politician, very often, we turn around and point the finger. I hope that you people here, especially Democrats, don't start pointing fingers at the leadership because they have a reason to do what they are doing. You are going to vote on this bill and I hope you are voting because you are convinced that you are voting and you are right. I am convinced that by voting for this bill, we are not right because, when I started working on this bill, my intention was parallel to what the chamber said they wanted. I wanted to protect the injured workers of the State of Maine, not cut benefits and to lower premiums for the small and medium-sized business.

This morning I asked Commissioner Collins, and I ask anyone, to please tell me where it is that I can go home and tell my employers that there is a savings in this bill. Well, she danced around the figures, she never, ever would say yes, there is a savings, yes, your small employers are going to receive a savings. Well, this is exactly what this Governor of the State of Maine said, he wanted to make sure that the business people received something in return for their taxes that he was going to put on these people, the small and medium-size business, all businesses. I don't see anything in this bill. I don't see any guarantee. The other body and this body have tried to put in the bill, guaranteed savings, meaning guaranteed premium cuts, but we (this body as well as the other body) refused to put them in. Why? And, we are going to go home and tell our employers that we have provided them with a good bill? I am afraid not.

I was here in 1987 and what we did in 1987 was horrible but what we are doing here is more than horrible, it is terrible. In 1987, an injured worker would have to go through a statewide search after maximum medical improvement plus 400 weeks. What we are passing here is an injured worker (same type of injury we had before) who is now required to have a statewide search after 40 weeks and, in order to make it a little bit more palatable, we tried to say we will at least pay the travel of that person. But no, we said no. He or she is going to have to take money out of their pocket.

There are some people that did think that being on Workers' Compensation was megabucks until it was their daughter or their son and then they say it is a horrible, terrible system. When it is concerning them or their relatives, it is a horrible system. But, when it is the other person, it is all right, no problem.

Well, I wish that you could put yourselves in the shoes of those injured employees and try to live what they are living. Most of these people come close to losing their homes, some of them do. Some of them end up in divorce. I can personally tell you — I had a brother-in-law who has gone through this system and guess what he had to do? He was a hard working man, not well educated, worked in the woods, had a bad back. He was on welfare because he couldn't get his Workers' Comp, it takes forever. The man had tried. One morning around two o'clock in the morning he took a 30-06 and blew his head off. You think it is megabucks? This is serious business. If you haven't lived to see any of your relatives or friends go through Workers' Compensation, you are lucky. I hope you never do see that. I have seen plenty of

friends, acquaintances, and plenty of suffering.

What we are doing here tonight, I assure you, is not good, it is not a savings to the business people, it is a sham. This Governor is a very good manipulator of the press, he has managed to take the attention away from the real problems of this state. We are in a horrible position where we had to raise taxes. Don't be fooled, the majority of those taxes are not on business, they are on each and every one of our citizens. The majority of those taxes are on the average worker, not on business.

If you vote for this, I hope you know what you are voting on because I don't believe you do because this bill is a complicated bill. I can assure you there is going to be a lot of litigation, the very thing that we want to fight.

Throughout this nation, every time we tamper with Workers' Compensation, it means more litigation before the process is understood, before both sides, (insurers as well as the lawyers that represent the employee) fully understand it. It costs more money and the insurance industry in this nation go into each and every state that they can and change these laws. After they change them, it is like a utility, the more they spend, the more they make.

I hope that when you vote, you know exactly what you are voting on. We all know, Democrats know, what our leadership said. It is up to us to have the backbone to stand up for what we believe in and not be fooled. There is another day, there is another year.

I have been here trying to fight many issues for the past five years and I lose them all through vetoes, issues that are important to my constituents and yours. Please, if you vote for this, don't blame leadership because they lived up to their agreement.

If you want to take the rates of 1985, Governor Brennan had an eight percent reduction in benefits, but it was also balanced by eight percent reduction in rates, in the law, on the books. He did it. Why is it that we can't do it today?

Judge Alexander looked at it in 1987 because the insurance industry had said that they were not making money and they were going to move out of the state. Well, after Judge Alexander looked at it he said, it is true, the insurance industry is not making much money. They are making anywhere from one to five percent, which is not much money.

Joe Edwards entered the State of Maine, he granted a 40 percent reduction in benefits. Afterwards, he granted a 26 percent increase in rates, an additional 24 percent increase, a fresh start of three percent, an additional four percent just prior to the election. Right now, he has got a 14 percent increase in the works, as we all know, which means taking everything. There was also a ten percent increase in 1985 which means 93 percent increase in rates for benefits that are now 55 percent of what they were. Can you tell me there is any logic to this? There is no logic to it.

If you believe that you have not cut benefits, please tell me where it is that you are getting the 26 or 30 percent. I would like to know.

There are benefit cuts and I can almost bet you that the employers of this state, small and medium, will not reap any benefits, will not see any premiums cut. I have said it year after year, I have been here for 17 years and every time we have cut any type of benefits, I have always asked, how much does it mean for my small employers or medium-sized

employers? How much are the premiums going to go down? Never. They haven't gone down and I don't believe they will.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: Two points I would like to make, one, leadership of both political parties made an agreement which got us to this point, the point of enactment, enacting a bill that all of us, the vast majority of us, recognize as very important. There have been variations from that agreement from both sides of the aisle, we accept that, but it brought us to the point of bringing the legislation before us.

We have a bill before us now that I strongly urge be enacted. We have attached amendments that have an unknown effect. They were done for reasons that many of you recognize will help with the final enactment of this bill. They have perhaps weakened the bill. I don't think that anyone would claim that we have the original savings that were envisioned but we do have an important piece of legislation that needs to be enacted because the vast majority of this body recognizes that the jobs of Maine people are at stake.

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

Representative RAND: Mr. Speaker, Men and Women of the House: I feel I would be remiss if I didn't state for the Record my strong opposition to L.D. 1981. Although it has been stated, and accurately many times tonight, that there are many good features in this bill, the mandatory trial work period, I think, is an excellent one.

The enabling legislation for a state fund, which is probably the only real useful thing that will help get all of the small businesses out of the assigned risk pool, is another.

The harm that is done to people in this bill outweighs all of that good, the statewide work search, automatic discontinuance, the permanent impairment offset. To get back to Representative Michaud, the person who lost the two arms would no longer receive the money for those two arms. That is what the permanent impairment offset is.

My opposition also lies for the small and medium-sized employers of this state who will not see a rate reduction. This is 1987 revisited. We will get a 14 percent or more increase in September and we will be told that the Democrats didn't go far enough with the Workers' Compensation reform and it is all the Democrats fault. We will then be asked, probably not in September, October or November, but certainly in January, February or March to revisit Workers' Compensation and clean up the loose ends, the loose ends being compensability and apportionment.

I would hope that people would think very strongly before they vote for this bill.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: For the Record I want to say that I am sure everyone here wants to reform Workers' Compensation. I think we had an excellent bill before us, it was a Democratic bill, and what is good in this bill is directly from the original bill the Democrats presented.

I applaud leadership for keeping their promises but I am sure leadership never promised and know they cannot pledge the vote of any other individual legislator.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Coplin Plantation, Representative Powers.

Representative POWERS: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from South Portland, Representative Macomber. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Millinocket, Representative Clark. If he were present and voting, he would be voting nay; I would be voting yea.

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

Representative CLARK: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Auburn, Representative Cote. If she were present and voting, she would be voting yea; I would be voting nay.

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

Representative MORRISON: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Topsham, Representative Chonko. If she were present and voting, she would be voting nay; I would be voting yea.

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

Representative WENTWORTH: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Bar Harbor, Representative Constantine. If she were present and voting, she would be voting yea; I would be voting nay.

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

Representative HANDY: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Lewiston, Representative Boutilier. If he were present and voting, he would be voting yea; I would be voting nay.

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

ROLL CALL NO. 252

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Bowers, Butland, Carleton, Carroll, D.; Cathcart, Coles, Daggett, DiPietro, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Gean, Gould, R. A.; Greenlaw, Gwadosky, Hanley, Hastings, Heino, Hepburn, Hichborn, Jacques, Joseph, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lebowitz, Lipman, Look, Lord, MacBride, Manning, Marsano, Marsh, Mayo, Merrill, Mitchell, E.; Murphy, Nadeau, Nash, Norton, Nutting, O'Gara, Ott, Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Savage, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Vigue, Waterman, Whitcomb, The Speaker.

NAY - Adams, Duffy, Erwin, Farnsworth, Goodridge, Gray, Gurney, Hale, Heeschen, Hoglund, Holt, LaPointe, Lemke, Luther, Mahany, McHenry, McKeen, Melendy, Michaud, O'Dea, Oliver, Paradis, J.; Rand, Saint Onge, Tracy, Treat.

ABSENT - Cahill, M.; Carroll, J.; Cashman, Crowley, Dore, Hichens, Hussey, Jalbert, Kerr, Ketover, Libby, Martin, H.; Mitchell, J.; Pfeiffer, Pineau, Poulin, Pouliot, Rydell, Salisbury, Sheltra, Townsend, Tupper.

PAIRED - Boutilier, Chonko, Clark, H.; Clark, M.; Constantine, Cote, Graham, Handy, Macomber, Morrison, Powers, Wentworth.

Yes, 91; No, 26; Absent, 22; Paired, 12; Excused, 0.

91 having voted in the affirmative and 26 in the negative with 22 being absent and 12 having paired, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 18 was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 785)

ORDERED, the House concurring, that Bill, "An Act to Allow Agencies to Amend Legislative Agendas to Accommodate Unforeseen Events," S.P. 779, L.D. 1975, and all its accompanying papers, be recalled from the legislative file of the First Regular Session of the 115th Legislature to the Senate.

Came from the Senate, read and passed.

Was read.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to consider myself a reasonable person; however, I find myself less than enthusiastic about the prospects of letting in a bill at 4:45 a.m. on the last day of the legislative session, unknowing what the bill actually does.

As I understand it, this bill was submitted at one time earlier in the process and was killed during the midnight massacre last week when so many of the other bills were killed. You may remember that in 1989 this legislature passed legislation that would create a legislative regulatory agenda for various agencies out of the concern that various agencies in the State of Maine were promulgating rules and regulations that were potentially inconsistent with the laws that we had passed. The law in 1989 said that each agency has to promulgate a regulatory agenda that has to be given to the Joint Standing Committees of Jurisdiction a hundred days after the legislative session ends so we would have an opportunity to meet with them and observe their intentions of promulgating rules and regulations.

Earlier this year, there was a bill sponsored by Representative Gray that dealt with a legislative veto, a constitutional amendment, which was not successful. However, in the Committee of Conference,

legislation was passed and enacted that, in fact, said that before any rule or regulation (with exception of emergency rules) could be adopted but they first had to comply with the prospects of the law that we passed in 1989. In other words, they had to be consistent and had to follow up through this legislative agenda.

I am not sure, at this point, without the knowledge in front of me whether this is a good idea or a bad idea and I guess my sense is to vote against it unless somebody gives me a more compelling reason and, at that stage, I would let others vote however they see fit and we will see what happens.

A two-thirds vote of the members present and voting being necessary, a total was taken. 21 voted in favor of same and 91 against, Joint Order (S.P. 785) failed of passage in non-concurrence and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

At this point, Representative Gwadosky of Fairfield was appointed to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

Representative Martin of Eagle Lake was granted unanimous consent to address the House:

Representative MARTIN: Mr. Speaker, Members of the House: Having voted on the Order recalling a bill from the legislative files, I am not in a position to move reconsideration, but I do think that it is important that you understand what the Order does. Unfortunately, I was not aware of what had taken place over the past two days. If I had been told, I perhaps would have known a little bit about it.

It is not my fault that the bill was sponsored by a Republican in the other body at the request of the administration. I understand that there was lobbying that took place among members of my own caucus and I apologize to all the members of the House for that having taken place.

Let me tell you what the bill does so you are aware of what it is. If the bill is not passed, there will no construction in the Unorganized Territory during the period from the time we adjourn to the time we come back and correct the situation.

Earlier in the session, a bill was passed which placed all notifications of zoning changes requiring APA notification. That was never intended to apply it to the Land Use Regulation Commission and so, when the amendment did come through, there was no exemption provided for for emergency rulemaking for that situation to have occurred.

What will transpire between that time and that,

by the way, will also apply to Plantations that might be covered presently under the LURC law and will also apply to all of the Unorganized Territory in Maine. It is my understanding that Dave Boulter of the Land Use Regulation Commission went to the Energy and Natural Resources Committee to explain exactly what had taken place and clearly laid out the scenario of what would occur if the bill failed to pass.

So, I would ask all of you, and I guess I am one of those who represents a substantial number of individuals who live in the Unorganized Territory or in Plantations covered by the Act, that you reconsider or someone makes the motion to reconsider that voted on the prevailing side to see whether or not we can solve this problem. I understand the desire to play from time to time but I am afraid that this is not the time to do it, so I beg someone tonight to move reconsideration.

Representative Jacques of Waterville, having voted on the prevailing side, moved that the House reconsider its action whereby Joint Order (S.P. 785) failed of passage.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will support the motion to reconsider this action. What the Representative from Eagle Lake has said is very true. The people in the Unorganized Territories are just as much citizens of the State of Maine as you and I. I have worked with these people for ten years and I still continue to work with them, even though I now do not represent them. They need your help and if you look at the budget of this year, you will see that the funds from their taxes has contributed a great deal toward the budget that has been approved.

Please reconsider and give them some help at this time.

Subsequently, the House reconsidered its action whereby Joint Order (S.P. 785) failed of passage.

The SPEAKER PRO TEM: The pending question before the House is passage.

A two-thirds vote of the members present and voting being necessary, a total was taken. 89 voted in favor of same and 11 against, Joint Order (S.P. 785) passed in concurrence.

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

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

SENATE PAPER

Recalled from Legislative Files pursuant to Joint Order S.P. 785

Bill "An Act to Allow Agencies to Amend

Legislative Agendas to Accommodate Unforeseen Events" (EMERGENCY) (S.P. 779) (L.D. 1975)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed as amended by Senate Amendment "B" (S-471).

(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.

Senate Amendment "B" (S-471) was read by the Clerk and adopted.

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

Representative Gwadosky of Fairfield offered House Amendment "A" (H-780) and moved its adoption.

House Amendment "A" (H-780) was read by the Clerk.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I stated a few moments ago that I had a concern about the process that this particular bill had followed. I was concerned about the comments of the Representative from Eagle Lake that somehow politics were being played with this particular issue and this issue had, in fact, been lobbied. I want to assure the members of this body that this was not an issue that was lobbied by any stretch of the imagination. It was an issue that I had discussed at one time with the Representative from Waterboro, Representative Lord, and I know I had discussed it at one time with Representative Gray.

We were told a couple of weeks ago that there was a bill that would be floating by us at some point in time and we all three, I think, indicated our desire to see the legislation before us at some point and in fact had asked for the language to see what they were attempting to do because we were very concerned about upsetting this somewhat delicate compromise that we had put together as part of the Committee of Conference.

So, I am concerned about the comments that politics were being played and that somehow games were being played towards the end of this particular session. We come into this legislative process and we become members of this body and there is not a lot that we bring into it except a commitment to serve the public and to serve our constituencies. Aside from our personal integrity, we don't have much else we can take out with us and I guess when my personal integrity is questioned by any member of this body, then I take offense to that. I am offended by the comments of the Representative from Eagle Lake, Representative Martin.

The process, first and foremost, is the issue involved here, a process that allows us to consider legislation in a timely fashion. It is my belief, if this issue was a serious concern, it should have been brought before this body. This bill never had a public hearing. It was submitted on a Supplement one or two weeks ago and, as you know, it never had an opportunity to go to the State Government Committee and it just kind of floated around until the bill eventually was killed on the Wednesday night when we failed to extend. So, my concern was, that although

there was a bill floating around, we had heard that there were amendments to be offered, we heard there were adjustments to be offered but, frankly, we hadn't seen them. I didn't mean to surprise anyone. I also had a conversation with Representative Jacques because I had heard that there might have been some involvement with LURC but I discussed it with him and he was unaware, at that time, what was going to be coming before us. So given that uncertainty, that is why I suggested to the members that perhaps it was inappropriate for us to move forward, to begin to enact a bill in the last day of the legislative session with a bill that hasn't had a public hearing and a bill that we haven't had a chance to see. That is the reason I did that and I stand by those reasons.

The House Amendment I just offered deals with a portion of the bill that you don't have before you — the other body has put an amendment on it that essentially allows agencies to continue to use the regulatory agendas and work through their process with the exception of LURC. As I understand it, they would be excluded from this.

Also, there is a second category that says this provision does not apply to any rules adopted pursuant to any federal laws or regulations.

My concern is, if the issue of LURC is a real issue, and I will trust that what I have heard today is accurate, that I don't want to be involved in harming in any way the necessity for that to take place. I don't know if there is a rationale for excluding any provisions that might apply to rules adopted pursuant to federal laws or regulations. If there are, I would be happy to withdraw this amendment but this amendment that I am offering today simply takes out that reference in the Senate Amendment that says, "This provision does not apply to rules adopted pursuant to any federal laws or regulations" so it would allow LURC. I hope that this is something that we can move on with at this point in time. It was not my intent to interfere with the Unorganized Territories to do the types of things that they need to do but I haven't heard a compelling reason not to continue to exclude those federal provisions and I hope you will adopt the amendment.

The SPEAKER: The Chair would advise the Representative from Fairfield, Representative Gwadosky, that his amendment conflicts with Senate Amendment "B" that was offered. Senate Amendment "B" contains the very same language and, in addition, contains a provision which deals with Title 12, Section 685, which is a LURC law.

Representative GWADOSKY: Mr. Speaker, may I pose a question to the Chair?

I have a couple of amendments that have been prepared and I am wondering if we can accomplish the same thing by killing Senate Amendment "B" and offering House Amendment "B" that would allow for the LURC provisions but not allow for the federal law or provisions?

I believe those amendments are with the Clerk of the House.

The SPEAKER: The Chair does not have that amendment but the Chair would advise members of the House that the Senate Amendment was prepared in the Senate yesterday and distributed. The Chair does not have possession of House Amendment "B."

Representative GWADOSKY: I think I did provide that. I am not sure the Clerk still has it or not.

The SPEAKER: Apparently it was given to the

Clerk earlier and asked not to be distributed. The Clerk will go get it.

Subsequently, on motion of Representative Gwadosky of Fairfield, House Amendment "A" was withdrawn.

On motion of the same Representative, the House reconsidered its action whereby Senate Amendment "B" (S-471) was adopted.

On motion of the same Representative, Senate Amendment "B" (S-472) was indefinitely postponed.

The same Representative offered House Amendment "B" (H-781) and moved its adoption.

House Amendment "B" (H-781) was read by the Clerk.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Essentially what we have done in the last couple of seconds here is to indefinitely postpone Senate Amendment "B" which, as I read it, would have allowed for exclusion from the regulatory agendas for any provisions that did not apply to rules adopted pursuant to any federal law legislation and it also excluded any areas dealing with LURC. Withdrawing House Amendment "A" and now putting on House Amendment "B" allows exclusion now for LURC in the Unorganized Territories but it doesn't allow the exclusion for the federal changes.

Subsequently, House Amendment "B" (H-781) was adopted.

The bill was passed to be engrossed as amended by House Amendment "B" (H-781) in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following item appearing on Supplement No. 29 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Allow Agencies to Amend Legislative Agendas to Accommodate Unforeseen Events (S.P. 779) (L.D. 1975) (H. "B" H-781)

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. 101 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

At this point, a message came from the Senate borne by Senator DUTREMBLE of Cumberland informing the House that the Senate had transacted all business before it and was ready to adjourn without day.

The Speaker appointed Representative GWADOSKY of Fairfield on the part of the House to inform the Senate that the House had transacted all business

before it and was ready to adjourn without day.

Subsequently, Representative GWADOSKY reported that he had delivered the message with which he was charged.

The Chair appointed the following members on the part of the House to wait upon his Excellency, Governor John R. McKernan, Jr., and inform him that the House had transacted all business before it and was ready to adjourn without day.

Representative RUHLIN of Brewer
Representative GRAHAM of Houlton
Representative JACQUES of Waterville
Representative HOGLUND of Portland
Representative SHELTRA of Biddeford
Representative ERWIN of Rumford
Representative GARLAND of Bangor
Representative PENDEXTER of Scarborough
Representative DUPLESSIS of Old Town
Representative MacBRIDE of Presque Isle

Subsequently, the Committee reported that they had delivered the message with which they were charged.

The Chair recognizes the Representative from Howland, Representative HICHBORN.

Representative HICHBORN: Mr. Speaker and Members of the House, I move the House stand Adjourned Without Day.

The SPEAKER: The Representative from Howland, Representative Hichborn, moves that the House adjourn sine die. Is this the pleasure of the House?

The motion prevailed and at 6:13 a.m., Daylight Savings Time, Thursday, July 18, 1991, the Speaker declared the House adjourned without day.