

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

MAY 4, 1981 to JUNE 19, 1981

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HOUSE

Tuesday, June 2, 1981

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

Prayer by the Reverend Julian Hall of the Old South Congregational Church of Hallowell. The members stood for the Pledge of Allegiance to the Flag.

The journal of the previous session was read and approved.

The SPEAKER: The Chair is pleased to recognize, after her return from an illness, the gentlewoman from Van Buren, Mrs. Martin. We welcome her back today.

The Chair recognizes the gentlewoman from Van Buren, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker and Members of the House: I want to say a big thank you to everyone for the lovely cards, messages, phone calls, flowers, also the daily calls from the Speaker's Office. I will tell you, it was a wonderful feeling to be associated with such a fine group of people, and thank you so much. (Applause)

**Papers from the Senate
Committee of Conference Report**

Report of the Committee of Conference on the disagreeing action of the two branches of the legislature on Bill "An Act Relating to the Public Utilities Commission Officials' and Employees' Compensation" (H. P. 577) (L. D. 657) have had the same under consideration and ask leave to report: that the Senate Recede from its action whereby the Bill was passed to be engrossed, as amended by Committee Amendment "A" (H-317); recede from its action whereby it adopted Committee Amendment "A" and Indefinitely Postpone same; adopt Conference Committee Amendment "A" (S-312), submitted herewith; and Pass the Bill to be engrossed, as amended by Conference Committee Amendment "A"; that the House recede and concur with the Senate and Pass the Bill to be Engrossed as amended by Conference Committee Amendment "A".

Signed:

Senators:

TRAFON of Androscoggin
GILL of Cumberland
AULT of Kennebec

— of the Senate.

Representatives:

DAVIES of Orono
WEBSTER of Farmington
DILLENBACK of Cumberland

— of the House.

Came from the Senate with the Committee of Conference Report read and accepted.

In the House, the Report was read.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker I would like someone on the Committee of Conference to explain exactly how much of a salary increase there would be for the members of the PUC and how that is accomplished through this amendment. Mr. Speaker, I would like to ask you, if we accept the Committee of Conference Amendment, what position is the bill then in?

The SPEAKER: We would be in concurrence with the other body, since the other body has accepted the Committee of Conference Report. At that point, the bill would go to engrossing and would be back as an enactor.

The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, I move that we accept the Committee of Conference Report.

The bill does two basic things. One, it moves the commissioners up one step within the ranges that they are already in and then re-freezes them in those positions, so there is no automatic year in and year out raise, which was one of the concerns that was raised in the House when this bill was first before us.

The size of the raise is approximately \$1,900 for the chairman, about \$2,100 for the other commissioners.

It also includes the provisions for the senior staff people that were in the original bill. They are going to be moved up a couple of steps within the salary scale. That is essentially what it does. The three senior staff that are covered are the general counsel, the director of finance and the secretary of the commission.

Thereupon, the Report was accepted in concurrence.

The House voted to recede and concur with the Senate.

Conference Committee Amendment "A" (S-312) was read by the Clerk and adopted in concurrence, and the Bill passed to be engrossed as amended by Conference Committee Amendment "A" in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Non-Concurrent Matter

Bill "An Act to Provide Photographic Nonalterable Drivers' Licenses and Identification Cards" (H. P. 1555) (L. D. 1666) which was passed to be engrossed in the House on May 28, 1981.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-307) in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that we do not recede and concur with the Senate. If you will look at the Senate Amendment, you will find that they took the fiscal note off this bill so it won't go on the Appropriations Table. Once it is engrossed and enacted, it will become law; therefore, I hope that we insist.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, I would like to correct the gentleman from Madawaska, Mr. McHenry. The amendment is simply a technical amendment. For example, the words "General Fund" appeared in the draft of the bill where it should be "Highway Fund." The amendment was strictly technical. They put it on in the Senate to avoid having to put it on in Errors and Inconsistencies or some other method.

So, the bill is changed in no way, shape or form, the fiscal note remains the same. All it does is correct a misstatement in the bill. It is simply a technical amendment.

Thereupon, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

Messages and Documents

The following Communication:

Committee on Education

May 27, 1981

The Honorable John Martin

Speaker of the House

State House

Augusta, Maine 04333

Dear Speaker Martin:

The Committee on Education is pleased to report that it has completed all business placed before it by the First Regular Session of the 110th Legislature.

Bills received in Committee 84

Unanimous Reports 70

Ought to Pass 4

Ought to Pass as Amended 22

Ought to Pass in New Draft 4

Ought Not to Pass 21

Leave to Withdraw 19

Divided Reports 13

Study Bill

1

Respectfully yours,

Rep. LAURENCE E. CONNOLLY, Jr.

HOUSE CHAIRMAN

The Communication was read and ordered placed on file.

The following Communication:

Office of the Governor

Augusta, Maine 04333

May 29, 1981

To the Honorable Members of the Senate and House of Representatives of the 110th Legislature:

I am returning without my signature of approval H. P. 756, L. D. 893, AN ACT to Reduce the Bonding Authority of the Maine Guarantee Authority.

The single project bonding limitation of the Maine Guarantee Authority was raised last year in response to an immediate opportunity to attract a new, clean business to this State which has since begun construction and promises to employ three hundred people. The emergence of that opportunity caused us to reevaluate our bonding capacity; seven million dollars is, in some cases, a more realistic limitation. We supported the increase not for one specific project but to increase our economic development resources for all potential new or existing businesses.

Prior to last year, the limit on the MGA's authority for a single project was 2.5 million. This limit was set in 1973 and it is proposed to be reestablished in 1981 despite the effects of inflation and limited money supplies. This, in my view, represents a giant step backwards. It is not necessary and will limit our economic development efforts.

Since last spring when the increases in the Maine Guarantee Authority's bonding limit became effective, the Authority has been very restrained in using its discretion. I fully expect that it will continue to exercise sound judgment.

The increases have enhanced our efforts in economic development. Placing a 2.5 million-dollar limit on Maine Guarantee Authority projects seriously impedes industrial development efforts in these times of high inflation and increased costs of doing business. The law, as it exists today, with a 7-million-dollar limitation is sound, workable and a valuable economic development tool. The State Development Office has been able to advise industry of the existence of this resource and this has resulted in a great deal of interest in locating in this State.

The existing program limitation for single projects, \$7 million, gives Maine the opportunity to assist in the establishment and growth of business in this State.

It would be irresponsible for me to sign legislation which would hamper our economic development efforts and decrease the chances to attract new business which would provide jobs for Maine people. I urge you to continue your support for economic development activities and, so I respectfully request that you sustain my veto of this measure.

Very truly yours,

JOSEPH E. BRENNAN

Governor

The Communication was read and ordered placed on file.

The SPEAKER: The pending question is, shall this bill become a law notwithstanding the objections of the Governor?

On motion of Mrs. Mitchell of Vassalboro, tabled pending further consideration and later today assigned.

Special Sentiment Calendar

In accordance with House Rule 56, the following items (Expressions of Legislative Sentiment)

Recognizing:

The Bangor High School "Rams" baseball team, 1981 Penobscot Valley Conference Class

A Champions; (S. P. 652)

Shaw Mudge, owner of the Pineo Point Fisheries and part-time resident of Harrington, who was selected as 1981 Small Business Person of the Year in Connecticut; (S. P. 653)

Ed "Poochie" Pickett, of Augusta, catcher for the University of Maine at Orono baseball team, 1981 NCAA Northeast Regional Champions; (H. P. 1590) by Representative Lund of Augusta. (Cosponsors: Representatives Paradis of Augusta, Hickey of Augusta and Senator Bustin of Kennebec)

Renee Baker, of Patten, as Top Scholar of Katahdin High School, Class of 1981; (H. P. 1591) by Representative Michaud of East Millinocket. (Cosponsors: Senator Pray of Penobscot and Representative Smith of Island Falls)

David Jones, of Patten, as a Top Scholar of Katahdin High School, Class of 1981; (H. P. 1592) by Representative Michaud of East Millinocket. (Cosponsors: Senator Pray of Penobscot and Representative Smith of Island Falls)

Kelly Jordan, of the John R. Graham School in Veazie, who has 3-years' perfect attendance; (H. P. 1593) by Representative Treadwell of Veazie.

Randy Hogan, of the John R. Graham School in Veazie, who has one-year's perfect attendance; (H. P. 1594) by Representative Treadwell of Veazie.

Lisa Demaso, of the John R. Graham School in Veazie, who has one-year's perfect attendance; (H. P. 1595) by Representative Treadwell of Veazie.

The Jonesport-Beals High School Class Team of Anita Libby, Brent Libby, Philip Alley and Dan Colbert, which won 1st place in the team division of the 1st annual Washington County Chess Tournament; (H. P. 1596) by Representative Randall of East Machias. (Cosponsors: Senator Brown of Washington and Representative Conners of Franklin)

Norman Parsons of Jonesport-Beals High School, who won the overall individual trophy of the 1st annual Washington County Chess Tournament; (H. P. 1597) by Representative Randall of East Machias. (Cosponsors: Senator Brown of Washington and Representative Conners of Franklin)

There being no objections, these items were considered passed in concurrence or sent up for concurrence.

House Reports of Committees Leave to Withdraw

Representative Brown from the Committee on Taxation on Bill "An Act to Revise the Tree Growth Tax Law" (H. P. 612) (L. D. 689) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Representative McKean from the Committee on Public Utilities on Bill "An Act to Reform the Regulation of Carriers of Passengers and Freight" (H. P. 1139) (L. D. 1356) reporting "Ought to Pass" in New Draft (H. P. 1576) (L. D. 1678)

Report was read and accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker and Members of the House: This is one of those bills that has just come across our desks and I see we have got another one a little later on in the session. Perhaps somebody from the committee, if we are going to give it two readings in one shot here, I would kind of like to have some member of the committee explain to the House what the bill does.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to any member of the Public Utilities Committee.

The Chair recognizes the gentleman from

Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, could I have this item tabled until later in today's session, please?

Mr. Speaker, I withdraw that motion.

The SPEAKER: Mr. Speaker, the bill is what I think is a fulfillment of a three-year commitment on the part of the Governor and Public Utilities Committee to come up with a way that responsibly deregulates the transportation industry; namely, the trucking industry, which is the bill. It allows for free competition instead of government regulation. It sets up a system whereby buses will continue to have economic regulation because they are fearful of the situation that will be created if they should be deregulated, but in all other cases of transportation, trucking, railroads and that sort, they will now be operating, once this system goes into place, in a free enterprise market where those that can compete and can provide the best service at the lowest cost will benefit. Those who are unable to compete will probably fall by the wayside.

The system of regulation was created back in the 1930's at the demand of the trucking companies who were very fearful that uncontrolled competition was going to destroy many of them and drive them out of the market place. They asked for the government regulation, the regulation was in place and it created a number of problems over time, including such problems as trucks that were required under the law to drive to their destinations empty. It prevented people who were interested in getting into the business from getting into it, unless one of the existing carriers allowed them to get into it, which we felt was inappropriate. If people are willing and able to offer a service, they ought to have that opportunity.

We have transferred the safety regulation, which is the only form of regulation that will continue, over to the Department of Public Safety. We felt it was inappropriate for the Public Utilities Commission to continue handling safety regulation and the best place for that type of regulation was going to be in the Department of Public Safety, where they already had personnel handling this sort of responsibility, so we made a transfer of some of those positions from the Public Utilities Commission to the Department of Public Safety for handling that responsibility.

We have reduced the number of employees in state government by 16. We have changed the assessment system within the Utilities to compensate for cross-subsidization that was taking place, because the trucking industry was subsidizing some of the positions that were not dealing with trucking matters within the Public Utilities Commission.

For the most part, that is the system that we are creating. It is our opinion, the opinion of the Governor and the opinion of the industry, both the trucking and railroad industries, that the result of this is going to be greater competition, but after a few months of developing an alternative way of handling their responsibilities and soliciting business, the result is that many customers are going to see some diminution in price as competition takes over, you are going to find more small companies coming into the industry offering service in rural areas of the state that currently are not receiving the best of service, and the result is that the market place is going to determine success or failure rather than having some regulatory agency handling that responsibility and deciding whether a company is going to make a profit or not make a profit.

I hope that answers the question.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I found the bill on my desk, and I would pose one additional question. That is in regard to the transportation safety fund, and I guess my question would be,

number one, is this a new fund? Number two, where is the money coming from, how much will it be and where will it be used?

The SPEAKER: The gentleman from Scarborough, Mr. Davies.

Mr. DAVIES: Mr. Speaker and Members of the House: The transportation safety fund is a fund into which monies received from registration licensing fees from trucks that are going to be in the business will be paying into. They are currently paying it into a regulatory fund in the Public Utilities Commission. They will be paying the same amount of money, there will be no increases in what they are going to be paying. It is just going to be in a new fund in the hands of the Department of Public Safety rather than in the Public Utilities Commission. The money is going to come from an \$8 user fee and a \$25 one-time registration fee of a company or a truck that is getting into the business. This money will provide the wherewithal to carry on the safety regulations that are going to be undertaken by the Department of Public Safety in the Department of Transportation.

The fund is going to be \$450,000 annually that will be coming in from these fees, and there will be 18 positions that are going to be transferred from the Public Utilities Commission to the Department of Public Safety that will be paid from this regulatory fund to handle the safety regulation on trucks.

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

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass in New Draft/New Title

Representative Cahill from the Committee on Marine Resources on Bill "An Act to Increase the Department of Marine Resources License Fees" (H. P. 985) (L. D. 1173) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Maintain and Improve Marine Patrol Services" (H. P. 1589) (L. D. 1680)

Report was read and accepted, the New Draft read once and assigned for second reading later in today's session.

Consent Calendar First Day

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

(H. P. 220) (L. D. 298) Bill "An Act to Make Corrections and Clarifications in the Education Laws" (Emergency)—Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-509)

On the objection of Mr. Connolly of Portland, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-509) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

(H. P. 1450) (L. D. 1590) Bill "An Act Establishing a Voluntary Income Protection Program for Shellfish Harvestors"—Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-510)

Objection having been noted, was removed from the Consent Calendar.

Thereupon, the report was accepted and Bill read once. Committee Amendment "A" (H-510) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

Passed to be Engrossed Amended Bill

An Act to Establish and Coordinate Training, Education and Employment Programs for Recipients of Aid to Families with Dependent Children" (S. P. 642) (L. D. 1662) (S. "A" S-

301)

Was reported by the Committee on Bills in the Second Reading, read the second time, and passed to be engrossed as amended in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Passed to Be Enacted Emergency Measures

An Act to Revise the Public Drinking Law (S. P. 66) (L. D. 93) (S. "B" S-305 to H. "D" H-481)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 134 voted in favor of same and 6 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Ensure the Admissibility of Results of Self-contained, Breath-alcohol Testing Apparatuses (S. P. 251) (L. D. 720) (C. "A" S-302)

Was reported by the Committee on Engrossed bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 138 voted in favor of same and 2 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Creating the Rangeley Water District (S. P. 322) (L. D. 912) (H. "A" H-479; C. "A" S-269)

Was reported by the Committee on Engrossed bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 139 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education of State Wards and Students who are not State Wards (H. P. 1559) (L. D. 1669)

Was reported by the Committee on Engrossed bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 142 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Relating to the Provisions of the Charter of the Brunswick Sewer District (H. P. 1577) (L. D. 1672)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 133 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Finally Passed Emergency Measure

RESOLVE, to Authorize Expenditure of Certain Federal Funds for New or Expanded Programs (H. P. 1361) (L. D. 1546) (H. "A" H-271)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of same and 20 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to License Community and Home

Health Agencies (S. P. 618) (L. D. 1624) (S. "A" S-304)

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.

Emergency Enactor Later Today Assigned

An Act to Amend the Maine Health and Higher Educational Facilities Authority Act (S. P. 648) (L. D. 1674)

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

On motion of Mrs. Prescott of Hampden, tabled pending passage to be enacted and later today assigned.

An Act to Amend Provisions Concerning the Operation of the Operation after Suspension and Habitual Offender Laws and Certain Non-sentencing Provisions of the Operating under the Influence Law (H. P. 556) (L. D. 635) (C. "A" H-501; S. "A" S-310)

An Act to Increase Eligibility Levels for the Elderly Household Tax and Rent Refund Act (H. P. 626) (L. D. 709) (C. "A" H-495)

An Act Concerning the Suspension of a Driver's License for Operating a Motor Vehicle under the Influence of Alcohol or Refusing to Submit to a Blood or Breath Analysis (H. P. 637) (L. D. 727) (C. "A" H-502)

An Act to Amend the Charter of the Gardiner Water District (H. P. 712) (L. D. 837) (C. "A" H-499)

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 paper appearing on Supplement No. 1 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Reform the Statutes Relating to Driving under the Influence of Intoxicating Liquor or Drugs" (H. P. 1351) (L. D. 1541) reporting "Ought to Pass" in New Draft (H. P. 1585) (L. D. 1681)

Report was signed by the following members:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

— of the Senate.

Representatives:

LUND of Augusta
O'ROURKE of Camden
JOYCE of Portland
DRINKWATER of Belfast
LIVESAY of Brunswick

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H. P. 1586) (L. D. 1682) on same Bill.

Report was signed by the following members:

Representatives:

HOBBINS of Saco
REEVES of Newport
SOULE of Westbrook
CARRIER of Westbrook
BENOIT of South Portland

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBINS: Mr. Speaker, I move that the Minority "Ought to Pass" in New Draft Report be accepted, L. D. 1682.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, moves that the Minority "Ought to Pass" Report in New Draft be accepted.

The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, I would request a

roll call and I wanted to stand this morning to oppose the minority stand of the committee.

Mr. Speaker, I move the indefinite postponement of L. D. 1682 and all its accompanying papers and I would like to speak briefly to my motion.

The SPEAKER: The Chair would advise the gentleman that if he makes the motion to indefinitely postpone, he will be postponing the original bill and all reports, so the Chair would suggest that he simply speak against Report 1682, as to why it should not be accepted.

Thereupon, Mr. Joyce of Portland withdrew his motion to indefinitely postpone.

The SPEAKER: The gentleman may proceed.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: This is the Governor's bill. This is the bill that was before the Judiciary Committee and we spent an awful lot of time on this.

This is the bill proposed by the Governor that would permit the judge, upon rendering a guilty decision for operating under the influence, the judge would be permitted to send the defendant to jail for up to three days. This bill is aimed at striking out at a very serious problem.

You will hear, no doubt, many statistics here today in the debate on this bill. The one statistic that I want you to pay most attention to is 162, 162 is the number that you will have to explain when you go back home in three more days. During the past year, we have lost 162 people in alcohol-related accidents, 162 deaths. This particular bill, 1682, if you read that, and it was passed today, it would take the teeth out of the bill, out of the Governor's bill. It really, and I hate to use the word, although it is a good word in this body, this 1682 guts the bill, takes the meat right out of it.

Who are we going to make this bill for? Is it the attorneys who line up there, usually Monday morning, to defend these cases? No, I think we should think of the people out there.

Who are those people out there? They are the people that sent us up here to Augusta to make good bills. These are the people that depend on us during that crucial hour when we throw the switch. I, and I know many of you, have never forgotten for one moment who those people are out there. It is hard to find words to define them, but I picked it up while listening to one of my daughter's records. Remember that song, I told her it was our song, it wasn't this generation's song — "I love those dear hearts and gentle people who live and love in my hometown, they will never let you down" — that says a lot. It tells us who we are here to represent. We owe those people something out there. We have got to try to give them back the roads, we have got to give them back the privilege to travel on those roads where so many have died needlessly, all because of the drinking and driving problem. Yes, this will be our chance today, to kill this bill.

Mr. Speaker, what motion would I make to defeat that Minority Report and protect the gem?

The SPEAKER: The Chair would advise the gentleman that there is none. The only thing he can do is vote no on the pending motion.

Mr. JOYCE: Well, ladies and gentlemen, you heard our Speaker. I feel it would be his message and yours to vote no, and when I look to this body for support, you know I look to you, but today I am proud to not only look out to you but to look out straight and get the support on this bill.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBINS: Mr. Speaker, Men and Women of the House: If you will look at the Minority Report, you can see that the report contains strange committee fellows, the good gentleman from Westbrook, Mr. Carrier, the good gentleman from Newport, Mr. Reeves, the gentlelady from South Portland, Ms.

Benoit, the gentleman from Westport, Mr. Soule, and myself. You will also notice that everyone on the Committee has expressed a concern about the present statute dealing with operating under the influence, and we all concur with the Governor that some changes must be made in this area of the law.

I disagree with the good gentleman from Portland, Mr. Joyce, when he tabs the Minority Report as a gutted version, because it is a very serious step in the area of changing the present operating under the influence law.

I will give you a little bit of background. Presently, if a person is stopped for driving under the influence, a person is stopped and the officer has probable cause to believe that that person has been drinking, that individual has a choice at that time. He or she must either submit to a breath test or a blood test, or that person may refuse to take any type of test, but if that person refuses to take a test, that person loses his or her license automatically for 90 days, that breath or blood test, the results of which may be used in evidence. If that test is between a .10 content and above, under present Maine law, that is prima facie evidence that that person was operating under the influence. However, that is rebuttable, and for a conviction of driving under the influence, it takes more than just a test, it takes operation of the vehicle in some manner which is not consistent with the usual mode of operation of that vehicle. It also is important for a conviction of an individual, and that officer may personally observe whether or not that individual is stumbling over his words or having a difficult time to walk, so there are other elements.

The difference between the majority and the minority report is that—they both agree, I may first say, under both drafts, that if an individual is caught or stopped for operating under the influence and the test is between a .10 blood alcohol level and a .20, the district attorney has the discretion to either handle the case as a civil infraction or a criminal case, a crime under the criminal statutes.

If the district attorney decides to handle the case as a criminal case, between a .10 and .20 and above, a .20, there is no discretion on the part of the district attorney, he or she must handle the case as a criminal case, the test results will be considered per se evidence. That means, if the test is over a .10, you are guilty regardless of the operation, regardless of other means. If that person is found guilty under the Majority Report, and I understand the discretion involved with the district attorney, if that person is found guilty under the Majority Report, the amended version of the original bill in the Majority Report mandates, without any suspension whatsoever for any reason whatsoever that might come up, a 48 hour jail sentence, regardless what the facts of that individual case are, regardless if that individual who is wrong and should be punished will lose their job, regardless if the person convicted is a young woman with a child. It doesn't make any difference under Report A, the first report of the Majority Report.

The Minority Report, which was reported by five members of the committee, gives the court a little discretion, not much but a little. It says that if a person is found guilty of operating under the influence, the person shall pay a fine of not less than \$350 for which the penalty shall not be suspended. Under present Maine law, the minimum fine is \$250.

Under Report B, the Minority Report and the one which I moved for consideration, the sentence of the conviction shall include a period of incarceration of not less than 48 consecutive hours, which sentence shall not be suspended and unless, upon first conviction, the court sets forth in detail, in writing, the reasons why having regard to the nature and the circumstances of the violation and the history of the defendant, is of the opinion that exceptional circumstances and features of the case justify

the imposition of a sentence other than imprisonment, it gives the court some discretion.

If you have listened to what I just said, you will also realize that there is no suspension of this 48 hour provision if it is a second offense of operating under the influence, but it does give the court that discretion where the facts warrant that and where the judge must in writing, cite the reasons and the history of the defendant.

I commend the Governor and those who want to do something about operating under the influence, and I know that the good gentleman from Portland can talk about numbers, 167 or whatever number you want to talk about, and that is very important because that is how many people in this state were killed in alcohol-related deaths last year.

Believe it or not, we in Maine have a very strict law compared to many states. It sounds crazy but it is true. We have a law in the State of Maine that takes your license away after the second offense for six months, up to six months, and puts you in jail for 48 hours under present Maine law.

I suppose we could argue philosophically why we have a drinking or drug problem in our society, but I would ask you to look very closely at these two documents and then look at the committee report and look at the individuals who signed the committee report, because you will find that maybe philosophically in other areas we have disagreed, as the good gentleman from Westbrook, Mr. Carrier, can concur with me, but we also have a practical understanding of what it means, as the good gentleman from Newport, who was a former state trooper will tell you, of what it means to have a law which gives no discretion whatsoever when it comes to putting a person in jail for a first offense. When the real punishment of that individual or the real source of the solution might not be putting that person in jail for 47 hours, if it is a young woman or a man who needs to go to work, whatever the circumstances are, the real solution might be some type of rehabilitation program, for example, might be some type of counseling.

I urge you today to accept the Minority Report. I think it is a step in the right direction, it tightens up the law from what it is today, but it doesn't go that extra step which I feel goes a little too far. I urge you to accept the Minority Report.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, Members of the House: I rise this morning to support the gentleman from Portland, Captain Joyce, in the words of wisdom that he was giving you. I formerly was a police officer. I was fortunate to be included when the extrication course was written for Maine, the original one, I was one of the people who helped to write it. We put a lot of work into that course and it has been changed some since, some of you people who have taken an extrication course in the last two or three years have found some changes but a lot of the original meat is still in it. We toured the state, we worked with the state police and the local police, the sheriffs' departments.

The people who worked on developing that course were representatives from the Health and Institutional Services, a representative from the state police, a representative from DOT and myself. In doing this research on this program and preparing it, we had the opportunity to talk with local police officers, state police officers and many officers as you can guess. We also had the opportunity to work with ambulance people, we had the opportunity to work with the people who run the wreckers, and we tried to recreate a lot of these as to how we would take these people out after we arrived there. Some of them, it would almost be an impossibility.

Not only that, over the years I did spend

some time as a volunteer ambulance attendant after graduating from EMT courses at Harvard College in Cambridge, Massachusetts, there we had the opportunity to view a lot of these accidents caused not only by drinking drivers but by others.

While serving as a volunteer ambulance attendant and servicing seven towns, I had the opportunity, if you can call it an opportunity, to be at the scene and hopefully able to help some of these people, but it is not a pleasant thing to see sometime during the night, a family coming home from visiting some other members of the family or some friends and they get hit head on by a driver who is operating under the influence. I don't think there is anybody in this House that drinks that hasn't driven sometime in their life when they shouldn't. I know I have. I don't drink anymore, but I know back in the days when I used to take one, I took it when I shouldn't. There is always a way to get somebody to drive you home. It is a horrible thing to see an accident no matter how it is caused, and I know we have some EMT's here in the House who have been to them and had the opportunity to see this and know exactly what I am saying, they have had the opportunity to help in some small way to perhaps save those lives.

I hope you will vote with Captain Joyce and me this morning and vote against the Minority Report, because I was strongly in favor of the Governor's report when it first came out. It has been watered down a great deal but I am still strongly in favor of it and I don't want to water it down anymore.

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, I would like to pose a question through the Chair to any member of the committee.

Is the basic difference in the two reports, the Minority Report allows the judge to suspend the mandatory sentence at his discretion, mandatory jail sentence, is that the basic difference of the two reports?

The SPEAKER: The gentleman from Vassalboro, Mrs. Mitchell, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Members of the House: That is one of the differences of the bill. The other difference deals with a situation after the minimum sentence has been reached for a habitual offender, for example, habitual offender law, that the Secretary of State would have the discretion to issue a work-related license only. That was one of the concerns for a professional driver, if a person's livelihood was driving a vehicle, and that is one of the provisions which is different from the original bill.

Under the Majority Report, the 48 hour prison sentence would not be able to be suspended. Under the other proposal, the Minority Report which is before us, basically it says it is the presumption that it will be a 48 hour sentence; however, if a judge, for good cause, is presented evidence that that individual's history or character or special circumstances warrants it, that individual's sentence may be adjusted in some way. It could mean 24 hours in jail, it could mean 12 hours in jail, it could mean 4 hours in jail, or it could mean some other type of alternative.

It deals with the .10 to .20, the difference of anything over .10 in blood alcohol level, under the original proposal, the Majority Report, it would be per se in violation. Under the Minority Report, it would keep the same way of prima facie evidence, which means that there is an inference drawn but it is rebuttable.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Members of the House: I haven't decided how I am going to vote on this. I really am trying to listen very closely to what is being said, and I guess the

basic problem that I have is that I am kind of concerned that if we get into harsh, too certain penalties, that we may get a lot more plea bargaining. We have had quite a bit of evidence that we have had a lot of plea bargaining in this area anyway and very few convictions, which kind of surprised me, considering the adequacy of evidence when you look at blood alcohol levels. I am wondering if someone could speak to this.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Ms. Lund.

Ms. LUND: Mr. Speaker, Men and Women of the House: The Judiciary Committee thought a great deal about plea bargaining and they thought a great deal about making exceptions for different kinds of people, including nursing mothers and those who drive for their living. We decided, the majority of the Judiciary Committee, that what we needed to look at was the seriousness of the crime first of all, what is it that people are doing? People are drinking, people are driving, people are causing harm to themselves and to others. If we are going to look at it from that point of view, it becomes really much more simple.

The Majority Committee Report says, if you are stopped and have a blood test of .10 or above, you are automatically guilty of a new crime, which is driving under the influence. You automatically lose your license and you automatically pay a fine. Whatever else you did, whether you caused property damage, whether you hit another car or whether you went off the road, went through a red light, those are additional crimes, but there would be, under Report A, a new crime which is simply driving under the influence. Everybody would be treated exactly the same, .10 and above, and you would be charged for that crime, and prima facie would be convicted of that as a civil crime. All right, lose your license.

There is another crime in this bill, Report A, .20 and above. The district attorney had no discretion but to charge you with a criminal charge of driving under the influence. A .20 is not lightly under the weather or a slight buzz on, it is almost impossible to walk with .20. I think somebody with .20, no matter what kind of livelihood they have, no matter what they do for a living, no matter what kind of home they come from, no matter what kind of attorney they have who can plead their case, ought to really be shocked into the recognition that they are doing something which is deadly serious and deadly harmful either to themselves or to the other people on the road.

I don't like jail, nobody likes jail but there is no other place that is better to wake up in or spend 48 hours in to think about what it is like to drive with a .20.

One of the things that we had to fight all the way through this bill is the fact that some people would like still to be able to drink and drive. Well, I don't think that they should and I think most of us don't think that they should. Most of us feel, the eight of us on the committee that signed Report A, that when we are stopped, if we have .10 we should all be treated alike, lose our license, pay a fine, and if we have .20 we should spend some time in jail, like it or not, that is what we should do.

We have tried to eliminate the choice and the distinctions between different kinds of people who drink and drive, between those who can afford to stall and those who cannot. As far as I am concerned, plea bargaining is taken care of by the .10 and the .20 being automatically charged and prima facie evidence.

We have also, addressing the specific issue of plea bargaining, changed a crime which many people do plea to at the present time or plead to, I am not sure what the proper term is, they plead to driving to endanger. We now have a crime redefined and it is called driving to endanger, and it is under Section 1314. A person is guilty of driving to endanger if with criminal

negligence, which is defined somewhere else, he drives a motor vehicle in any place in such a manner that he or another person is endangered.

The penalty for driving to endanger is now, first of all, it is a Class E crime so the person who seeks to say, I wasn't drunk, I was only driving dangerously, will also lose his license, will be convicted of a Class E crime and will not benefit by pleading to anything less than the OUI conviction.

To my mind and to the majority of the committee, the best thing for us to do is to vote against the pending motion, which allows discretion on the part of the judge, to vote for Report A, which treats everybody equally who is charged with the same kind of crime, and to see if that will really help to clean up our roads of drinking drivers.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, whichever report you accept this morning, I think we are on the right track. I think most of us are very interested in doing something about the drunk-en drivers and it is all a matter of approach.

I believe that the Bill, 1682, is the best approach. If you will read the Statement of Fact, it is a lengthy bill, and maybe it explains it better and it is easier for me to understand and what I stood for, let's say, a month ago when this bill came before us.

To answer Mrs. Mitchell's question, in case she didn't get it, on Page 4, Section 1312, subsection 2b, will actually explain to you whether this is a mandatory sentence or not. This is like a reverse answer, it is like a reversed situation. In most cases, I am against giving the judge his way, I am really not in favor of that, I think we should have a mandatory sentence and good guidelines and not at his discretion. But in this case, it would be at his discretion on the first offense, but he also has to give his reasons in writing why he did not give a mandatory sentence. I think there would be very few instances where he would not give the mandatory sentence but I do think there might be some unusual circumstances where it demands for somebody to have it suspended or given more time than a regular mandatory sentence.

The gist of the bill is, our version, compared to the law that we have now, if you get caught for drunken driving, instead of being able to get your license if you take certain courses and seminars and all that stuff on drunkenness and how to behave in the future, you used to be able to do that after 30 days and the Secretary of State could give you your license. Well, I have a bill which we enacted this morning, which is on the Calendar, 1011, and my bill called for 60 days instead of 30 days. But this bill here is like a compromise, that they cannot, under any circumstances, get their license back within 45 days, so that makes it a little tougher for them. There are also some clauses in there which gives the Secretary of State the right or the power or whatever you want to call it, if somebody needs his car to go to work, to give them that type of a permit to use exclusively for that particular purpose.

If you think the best thing to do was to put everybody in jail on the first offense, and maybe it is, I really don't know, then I would not have gone along with the other report, 1682, I think that is the big difference between the two bills, one of the big differences. The mandatory jail sentence, I just feel, especially for such a short time, it can ruin a person's life. But on the second offense there is no reason why there should be any compassion for them and this is what we tried to do.

If you will read the bill, it is a long, lengthy bill, you can have all kinds of questions, you can have all kinds of solutions, and that is what we were looking for, solutions and an approach. And actually the whole thing is to approach the problem and our version of approaching the

problems is 1682 and the majority was on 1981.

The present motion is to accept 1682, and if in your judgement this is the best one, I hope you vote for it.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that we do not accept Report B, which is a pick and choose one, and accept report A, which is justice for all.

The SPEAKER: The Chair recognizes the gentleman from Camden, Mr. O'Rourke.

Mr. O'ROURKE: Mr. Speaker, Ladies and Gentlemen of the House: I wish to speak in opposition to 1682, and I hope that you will favor the bill, 1681, which is supported by Captain Joyce. I had a long speech prepared for you today, but I can see no need of going over plowed grounds.

I think Representative Lund of Augusta gave an excellent explanation of the bill. These are stern measures. I am sure there are those of us who feel that a mandatory jail sentence is harsh punishment for driving under the influence, but to families who have lost a son or daughter or a mother or father as a result of some person driving under the influence on our highways—this punishment is mild, indeed. If this law will save one life, I feel it should be enacted.

L. D. 1682, as presented, is an almost mandatory sentence. This type of bill, I believe, was tried in the last legislature and was enacted and it has not worked. I feel that it is time that we did take stern measures in order to stop the slaughter that is taking place on the highways. I think we have to be mindful of the 162 deaths that were caused on our highways due to alcohol-related causes.

I urge you to vote against 1682 and in favor of 1681 when it comes before you.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Saco, Mr. Hobbins, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Baker, Benoit, Berube, Boisvert, Boyce, Brodeur, Callahan, Carrier, Carter, Chonko, Connolly, Cox, Cunningham, Damren, Dillenback, Erwin, Fitzgerald, Foster, Gavett, Gowen, Hickey, Higgins, H.C.; Hobbins, Ingraham, Jalbert, Kane, Kiesman, Lancaster, Laplante, Laverriere, Lewis, Lisnik, MacEachern, Mahany, Martin, H.C.; Masterton, McCollister, McGowan, Michael, Nadeau, Norton, Paradis, P.; Perry, Pouliot, Prescott, Racine, Reeves, J.; Richard, Ridley, Roberts, Salsbury, Sherburne, Soule, Studley, Theriault, Walker, Wentworth.

NAY — Armstrong, Austin, Beaulieu, Bell, Bordeaux, Brannigan, Brennerman, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Carroll, Clark, Conary, Conners, Crowley, Curtis, Davies, Davis, Day, Dexter, Diamond, G.W.; Diamond, J.N.; Drinkwater, Dudley, Fowlie, Gillis, Gwadosky, Hall, Hanson, Hayden, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Jackson, Jacques, Jordan, Joyce, Kany, Ketover, Kilcoyne, Livesay, Locke, Lund, MacBride, Macomber, Manning, Martin, A.; Masterman, Matthews, McHenry, McKean, McPherson, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Paul, Pearson, Perkins, Peterson, Post, Randall, Reeves, P.; Rolde, Small, Smith.

C.B.; Smith, C.W.; Stevenson, Stover, Strout, Swazey, Tarbell, Telow, Thompson, Treadwell, Tuttle, Twitchell, Vose, Webster, Weymouth, The Speaker.

ABSENT — Kelleher, Soulas.

Yes, 58; No, 90; Absent, 2; Vacant, 1.

The SPEAKER: Fifty-eight having voted in the affirmative and ninety in the negative, with two being absent, the motion does not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted, the New Draft, L. D. 1681, read once and assigned for second reading later in the day.

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

Bond Issue

An Act Authorizing a Bond Issue in the Amount of \$29,300,000 for the Purposes of Fostering Agricultural and Economic Development in the State of Maine (S. P. 488) (L. D. 1428) (H. "A" H-508 to C. "A" S-29)

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

On motion of Mr. Higgins of Scarborough, tabled pending passage to be enacted and later today assigned.

Passed to be Enacted Emergency Measure

An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law (H. P. 1411) (L. D. 1576) (H. "B" H-319; H. "D" H-329; H. "E" H-503)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 130 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

Passed to be Enacted

An Act to Amend the Charter of the Bethel Water District (H. P. 1549) (L. D. 1665) (H. "A" H-504)

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.

Later Today Assigned

An Act to Recodify and Amend the Maine Guarantee Authority Laws (H. P. 1563) (L. D. 1671)

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

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: I wanted to call your attention to this bill before we do enact it, and there are several reasons. One is, our Maine Guarantee Authority is today our basic economic development tool, and there are major changes in this particular bill. In fact, the State Government Committee, I would certainly say that this is the thing that we concentrated on this year and there are many positive policy changes within this bill. I wanted to call your attention to them because municipalities are very interested in this particular economic development tool and there has been absolutely no media attention whatsoever on this bill.

Among the provisions that are new are, we have basically removed retailing from the revenue bond programs within the Maine Guarantee Authority. Secondly, we have totally rewritten the competitive disadvantage sections of the law. And thirdly, we no longer have an obtuse confidentiality provision in which applicants for any program within the Maine

Guarantee Authority are totally protected from public knowledge that they have applied for a particular program.

The Maine Guarantee Authority, and I will be very brief, but this is important, has four programs, three of which we have consciously been trying to enlarge in the last several years. Two of those are the revenue bond programs, one of which allows for a municipal revenue bond, tax exempt bonds, and of course today this is major. Millions and millions and millions of dollars of industrial and commercial projects, because of that particular program, are a very positive tool for use here in Maine and allowed, really, by Congress.

The third one we have been enlarging is the community industrial building program, and we are enlarging that so you can build basically a shell of a building and then invite industry from elsewhere to come in and work here. For instance, that was true with Pratt and Whitney.

Then we have the fourth program, and personally I would like to see that program dwindle. That is the guarantee program, that is the fourth one, that is the one that is famous for its sugar beets, its Evergreen Valley problem and so on.

Last year, the Maine Legislature did allow individual project guarantees of up to \$7 million. It kept a statutory limit on all guarantees at \$50 million, but it did allow individual projects to go up to \$7 million.

We have before us today a veto on a provision which would lower the individual guarantee limit to \$2.5 million, we have a veto on a separate bill which does that, and I want to call your attention to the fact that the committee has put that same provision within this major change in the Maine Guarantee Authority. I want you to know that, because I didn't want you to just pass this to be enacted and not know that that same provision is contained within this act. That is why I wanted to call it to your attention before we do go ahead and enact it.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and later today assigned.

(Off Record Remarks)

On motion of Mrs. Chonko of Topsham, Recessed until the sound of the gong.

After Recess 12:45 p.m.

The House was called to order by the Speaker

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

Bill "An Act to Fund and Implement Certain Collective Bargaining Agreements and to Fund and Implement Benefits for State Employees Excluded from Collective Bargaining" (Emergency) (H. P. 1598) (Presented by Representative Pearson of Old Town) (Cosponsor: Representative Smith of Mars Hill)

Was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

All matters acted upon requiring Senate concurrence were ordered sent forthwith.

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

Special Sentiment Calendar

Recognizing:

The 133 foster grandparents in the 2 foster grandparent programs in the State, who serve over 400 children with special needs at more than 50 sites; (S. P. 659)

No objections being noted, the above item was considered passed in concurrence.

At this point, the rules were suspended for the purpose of allowing members to remove their jackets for the remainder of the session.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Table:

HOUSE DIVIDED REPORT — Majority (12) "Ought to Pass" as Amended by Committee Amendment "A" (H-462) — Minority (1) "Ought Not to Pass" — Committee on Judiciary on Bill "An Act to Create an Appellate Division of the Workers' Compensation Commission" (H. P. 1252) (L. D. 1476)

Tabled—May 22 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Either Report.

On motion of Mrs. Mitchell of Vassalboro, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-462) was read by the Clerk and the Amendment was indefinitely postponed.

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

Mrs. Beaulieu of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-514) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Table:

HOUSE REPORT — "Ought to Pass" as Amended by Committee Amendment "A" (H-409) — Committee on Labor on Bill, "An Act to Amend the Workers' Compensation Second Injury Fund" (H. P. 524) (L. D. 590)

Tabled—May 18 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-409) was read by the Clerk, and on motion of Miss Lewis of Auburn, Committee Amendment "A" was indefinitely postponed.

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

Miss Lewis of Auburn offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-511) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill "An Act Relating to the Filing of First Reports and the Workers' Compensation Law" (H. P. 1215) (L. D. 1441)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill "An Act Relating to General Health Insurance Benefits for Injured Maine Workers and their Families" (H. P. 1189) (L. D. 1413)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro,

the following matter was removed from the Unassigned Table:

HOUSE DIVIDED REPORT — Majority (8) "Ought to Pass" — Minority (5) "Ought Not to Pass" — Committee on Labor on Bill, "An Act Relating to the Notice Provisions of the Workers' Compensation Act" (H. P. 465) (L. D. 517)

Tabled—March 19 by Representative Mitchell of Vassalboro.

Pending—Motion of Representative Lewis of Auburn to Reconsider Failing to Accept Majority "Ought to Pass" Report (Roll Call Requested)

Thereupon, Miss Lewis of Auburn requested permission to withdraw her motion to reconsider, which was granted.

The Bill was indefinitely postponed and sent up for concurrence.

On motion of Mr. Diamond of Windham, the following matter was removed from the Unassigned Table:

SENATE DIVIDED REPORT — Report "A" (6) "Ought Not to Pass" Report "B" (6) "Ought to Pass" — Committee on Labor on Bill, "An Act to Stabilize the Maximum Weekly Benefits under the Workers' Compensation Act" (S. P. 225) (L. D. 613) — In Senate, Report "B" Accepted and Bill Passed to be Engrossed.

Tabled—May 26 by Representative Diamond of Windham.

Pending—Acceptance of either Report.

Thereupon, the "Ought to Pass" Report B was accepted in concurrence and the Bill read once.

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

Mr. Tuttle of Sanford offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-512) was read by the Clerk and adopted.

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

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

SENATE DIVIDED REPORT — Majority (12) "Ought to Pass" — Minority (1) "Ought Not to Pass" — Committee on Labor on Bill "An Act Concerning Information Provided by Insurers Prior to Rate Approval" (S. P. 345) (L. D. 988) — In Senate, Passed to be Engrossed.

Tabled — May 19 by Representative Mitchell of Vassalboro.

Pending — Acceptance of either Report.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill was read the second time and passed to be engrossed in concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

SENATE REPORT — "Ought to Pass" as Amended by Committee Amendment "A" (S-244) — Committee on Labor on Bill, "An Act to Require the Workers' Compensation Commission to Conduct a Data Systems Study" (S. P. 189) (L. D. 491) — In Senate, Indefinitely Postponed.

Tabled—May 26 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Bill was indefinitely postponed in concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Table:

HOUSE DIVIDED REPORT — Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-442) — Committee on Labor on Bill, "An Act to Expedite the Filing of Medical Re-

ports under the Workers' Compensation Act" (H. P. 462) (L. D. 512)

Tabled — May 20 by Representative Mitchell of Vassalboro.

Pending — Acceptance of either Report.

Thereupon, the Bill was indefinitely postponed and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

HOUSE REPORT — "Ought to Pass" as Amended by Committee Amendment "A" (H-410) — Committee on Labor on Bill, "An Act to Reduce Multiple Injury Litigation before the Workers' Compensation Commission" (H. P. 381) (L. D. 424)

Tabled—May 18 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Bill was indefinitely postponed and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

HOUSE REPORT — "Ought to Pass" as Amended by Committee Amendment "A" (H-441) — Committee on Labor on Bill, "An Act to Assist Handicapped Workers in Returning to Employment" (H. P. 602) (L. D. 679)

Tabled—May 20 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Bill was indefinitely postponed and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill "An Act Relating to Occupational Loss of Hearing" (H. P. 463) (L. D. 513)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill "An Act to Improve the Evaluation of Hearing Loss under the Workers' Compensation Statute" (H. P. 684) (L. D. 798)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill "An Act to Remove Artificial Barriers to Benefit Recovery by Workers with Occupational Diseases" (H. P. 600) (L. D. 677)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following item was taken from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill "An Act to Strengthen and Clarify the Occupational Disease Law" (H. P. 640) (L. D. 730)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill "An Act Concerning the Treatment of Asbestosis under the Workers' Compensation Act" (H. P. 567) (L. D. 643)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mr. Diamond of Windham, the following matter was taken from the Unassigned Table:

HOUSE REPORT — "Leave to Withdraw" — Committee on Labor on Bill, "An Act to Encourage Training of Handicapped Workers" (H. P. 500) (L. D. 551)

Tabled—May 20 by Representative Diamond of Windham.

Pending—Acceptance of Committee Report.

Thereupon, the Report was accepted and sent up for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Table:

SENATE DIVIDED REPORT — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Labor on Bill "An Act to Standardize Death Benefits under the Workers' Compensation Laws" (S. P. 359) (L. D. 1034) — In Senate, Majority "Ought Not to Pass" Report Accepted.

Tabled—May 27 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either Report.

Thereupon, the Majority "Ought Not to Pass" Report was accepted in concurrence.

(Off Record Remarks)

By unanimous consent, all matters acted upon, with the exception of L. D. 988, were ordered sent forthwith to the Senate.

On motion of Mrs. Ingraham of Houlton, Recessed until three-thirty in the afternoon.

After Recess
3:30 p.m.

The House was called to order by the Speaker.

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

Bill "An Act Concerning Information Provided by Insurers Prior to Rate Approval" (S. P. 345) (L. D. 988) — In the House, passed to be engrossed.

Held at the request of Representative Higgins of Scarborough.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move that we reconsider our action whereby this Bill was passed to be engrossed.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, moves that we reconsider our action of earlier in the day whereby this Bill was passed to be engrossed.

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: This is a piece of legislation that was heard in the Labor Committee and it is a bill that concerns itself with the Workers' Compensation issue. It was not included in one of the packages, either of the packages that we earlier engrossed this morning. It was a bill that we felt should be able to fly on its own merits.

During some preliminary discussions and some discussions that we have held here today in the interim, there seems to be some concern, and perhaps even some disagreement, over whether or not this piece of legislation will do what it is purported to do, and therefore whether or not it is even effective in nature. Therefore, I have asked to reconsider the bill and I would like to have some discussion from members of the Committee and those of us who perhaps know more about this issue than I do to inform the House so that we might make an intelligent decision, not that we haven't already, but at least know a little bit more about the issue that this bill tries to address.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House reconsider its action of earlier in the day whereby this Bill was passed to be engrossed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 51 having voted in the negative, the motion did prevail.

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

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

Second Reader Later Today Assigned

Bill "An Act to Reform the Statutes Relating to Driving under the Influence of Intoxicating Liquor or Drugs" (H. P. 1585) (L. D. 1681)

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

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I am having an amendment written and would ask someone to table this until later today.

Whereupon, on motion of Mrs. Kany of Waterville, tabled pending passage to be engrossed and later today assigned.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Fowlie.

Mr. FOWLIE: Mr. Speaker, is the House in possession of House Paper 1128, L. D. 1345, An Act Relating to Aquaculture?

The SPEAKER: The Chair would answer in the affirmative, having been recalled by Joint Order, House Paper 1588, from the Governor's desk.

On motion of Mr. Fowlie of Rockland, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be enacted.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-434) was adopted, and on motion of the same gentleman, the Amendment was indefinitely postponed.

The same gentleman offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-520) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Fowlie.

Mr. FOWLIE: Mr. Speaker, Men and Women of the House: The reason for recalling this bill from the Governor's desk and offering the House Amendment is because the original bill amended sections of quahog law which we passed and was signed by the Governor, and this amendment resolves some of the conflict, and there are no other changes.

Thereupon, House Amendment "B" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Orders of the Day

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

House Divided Report—Majority (8) "Ought to Pass" in New Draft under New Title, Bill "An Act to Authorize Bond Issues up to the Amount of \$5,100,000 for Energy Conservation Improvements for State-owned Buildings, Completion of State of Maine Park Facilities and Equipment Replacement for the Maine Public Broadcasting Network in the State of Maine" (H.P. 1550) (L.D. 1663)

—Minority (5) "Ought to Pass" in New Draft under New Title Bill "An Act to Authorize a Bond Issue in the Amount of \$5,100,000 for Energy Conservation Improvements for State-owned Buildings, Completion of State of Maine Park Facilities and Equipment Replacement for the Maine Public Broadcasting Network in the State of Maine" (H.P. 1551) (L.D. 1664)—Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize a Bond Issue in the Amount of \$4,800,000 for Energy Conservation Improvements for State-owned Buildings, Completion of State of Maine Park Facilities and Improvements to Airports in the State of Maine" (H.P. 945) (L.D. 1121)

Tabled—May 29 (Till Later Today) by Representative Pearson of Old Town

Pending—Motion of the same gentleman to accept the Minority "Ought to Pass" Report.

Mr. Pearson of Old Town requested permission to withdraw his motion to accept the Minority Report, which was granted.

On motion of the same gentleman, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading later in the day.

The Chair laid before the House the following matter:

Bill "An Act to Reduce the Bonding Authority of the Maine Guarantee Authority" (H.P. 756) (L.D. 893) which was tabled and later today assigned pending further consideration.

The SPEAKER: The pending question before the House is, shall this Bill become law notwithstanding the objections of the Governor?

The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: Earlier today, I did run through with you a little of the Maine Guarantee Authority revisions. That particular bill would go into effect on October 1 and repeal this particular bill, if this one does go into effect. Consequently, I don't think it makes any difference one way or the other how you vote.

If you do favor this particular policy change, which would be changing from a \$7 million limit on an individual project for a guarantee or insurance to the \$2.5 million, you still could do that in the other bill. I just thought I would explain that to you. I just wanted you to understand that this provision is contained in that other bill also.

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mithcell.

Mrs. MITCHELL: Mr. Speaker and Members of the House: Although Mrs. Kany is absolutely correct, this can be dealt with in some other way, it makes a great deal of difference how you vote, and I suspect that you will vote to sustain the veto of the Governor.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I guess I would have to agree, I think it does make a difference. Every time the Governor sends up a bill that is vetoed, I think the House ought to take seriously its actions on whether or not it wants to sus-

tain or override the veto.

Since I am the sponsor of the Bill, I guess I probably ought to get up and explain to you why I put the bill in and why you ought to vote to override the veto.

In the last session of the legislature, we had a bill in raising the limit of bonded indebtedness for the Maine Guarantee Authority. It was to accommodate a company that moved into the Wells area. It was passed as an emergency piece of legislation through this House and the other body as well, and essentially what it did was, the limit of \$2.5 million that had been on the books for each individual loan, in other words, the Maine Guarantee Authority, at that time, could not authorize or guarantee loans to companies for more than \$2.5 million, each individual loan. The maximum amount was \$40 million that they could go for any outstanding indebtedness for the summation of all the individual loans.

The bill was introduced and, as I said, was passed through here that raised the \$2.5 million to \$7 million, and it raised the \$40 million to \$50 million on the maximum solely to accommodate this one particular company in the Wells area. At that time, I felt very strongly in opposition to that particular move by the House. Unfortunately, we did not have the votes to stop it and the corporation got their loan and they have moved into the Wells area.

Nevertheless, I did feel it incumbent upon myself to put a piece of legislation in this time to remove the \$7 million restriction and lower it to the \$2.5 million. I left the \$50 million as it is; the Committee Amendment took care of that and the engrossed bill left it at \$50 million, so we are not changing that, we are just changing how much each individual project can be authorized and guaranteed for. I guess that I maintain that \$2.5 million ought to be enough. Obviously, the Governor feels differently.

The Committee on State Government felt the same as I did. It was a unanimous report out of the committee, and even though it can be addressed in another bill, I would remind you that that bill has already been engrossed in this House and is up for enactment, and if the Governor vetoes this one, there is nothing to say that he would not veto that one as well.

I think what we do here today is going to make a significant difference on how we deal with other pieces of legislation.

I have a philosophical problem with the legislation that we passed last time, and I think I expressed it to you earlier this session on another bill that we had dealing with the Maine Guarantee Authority before. I was not successful then in persuading you to vote against that piece of legislation, but it is still the same philosophy that I have had on the floor of the House, and it is competitive, I guess, if you will, with this piece of legislation, and that is that if businesses want to come to this state, we ought to help them as much as we can, there is no question about that, but do we want to put the people of the State of Maine on the line for more than \$2.5 million? We have had some bad problems with the MGA, not recently but certainly in the initial stages, with the sugar beet factory and the Evergreen Valley and that sort of thing. We have had some serious problems there, and I think the more exposure you have, in other words, the larger the amount of the loan, the larger chance you have for someone to come in and take advantage of that situation, turn around and leave the State of Maine, or go bankrupt, and the people of the State of Maine are the ones that are going to have to go good on this.

The Governor has made a lot of pitch in the past about trying to regain our Triple A rating. My opinion is, this is a bill that would help in the goal. I think that is a goal we all have, and I share that with him as well. But I think that by increasing the amounts that we can go on one particular loan just helps the chances of that loan going into default and the people having to

pick up the pieces.

Another point I would make simply is that because we do have a ceiling and a maximum limit, there are only so many numbers of loans that can be made. If the limit is \$2.5 million, we can make almost three times as many loans, if you wanted to fund the limit every time, than you could at \$7 million, and I think the State of Maine is certainly made up of small businesses, there is no question about that, and every time we grant a \$7 million bonding capability for one large business, that is three small businesses that are going to lose out because we have authorized \$7 million to some other big company.

I guess I really have a problem with, you know, if people are going to come to this state, I am not sure that we really ought to get involved with federal policy on guaranteeing their loans and having them be tax exempt. I have a serious problem with that.

Lastly I would say, probably on the lighter side, if I were a Democrat and the Governor was a Republican, probably I would get up and make some pitch about how the Governor was acting in the real interest of business here and he was not looking out for the small guy, but I am not and he is not, but I still want to make that pitch because I think the small business community in this state is one that we need to address realistically and is one that we need to address in a forceful manner. I would hate to see the \$7 million limit, because I think it hurts small business in the State of Maine.

I hope you will vote yes today to override the veto of the Governor.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I think one of the toughest fights that I ever got into on the floor of this House was in the last session when we dealt with changing the law to what it is today in order to make possible the coming to Maine of Spencer Press in Wells. It was an absolute battle royal, and leading the charge on the other side was the gentlelady from Waterville, Mrs. Kany. So when I first heard about this bill today, and this is the first time I have heard about it, I figured automatically this was Judy's revenge. I did see that she was not the sponsor of it, so I will have to take that back, except I did notice that she has managed to get two shots at this instead of one.

To give you a little bit of background on the limit for an individual project for the Maine Guarantee Authority, prior to 1971 the figure was \$8 million. In 1971, it was reduced from \$8 million to \$4 million; in 1973, it was reduced from \$4 million to \$25; and in 1975, when we raised it again, because of the need Spencer Press had, and let me tell you, for those of you who were not here, Spencer Press is a real blue ribbon company from Massachusetts, which is not fleeing to Maine but simply opening an expanded portion of their business, and they needed us to raise the limit because just one piece of equipment that they were buying, a special press from Germany, cost of \$2 million alone.

The progress report on Spencer Press is that they are now in the throes of finishing their construction on their 154 acre industrial park down in Wells. They will be employing about 300 people. The total project is something over \$9 million that they are spending just to get going. I guess that is one of the basic reasons, that I can't see anything wrong that has happened with Spencer Press, they had to meet some very stringent conditions from the Maine Guarantee Authority, and I guess what really gets me is, I don't know for certain, but there may be another Spencer Press waiting in the wings. Since 1973, if our figure was \$2.5 million, there has been a tremendous inflationary increase since then, so you might almost say that \$7 million now is about the equivalent of what \$2.5 million was in 1973.

The gentlelady from Waterville, earlier today, when she was talking about the other bill, called the Maine Guarantee Authority the major economic development tool that the state has. I hate to see you blunt the effectiveness of that tool by voting to override the Governor's veto. I think the Governor is right on point. We may have other industries that are blue ribbon industries, like Spencer Press, why limit ourselves when we don't have any idea that this is causing problems?

I hope you will sustain the Governor's veto.

The SPEAKER: The pending question is, shall this Bill become law notwithstanding the objections of the Governor. According to the Constitution, the vote will be taken by a roll call. This requires a two-thirds vote of all those present and voting. All those in favor of this bill becoming law notwithstanding the objections of the Governor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Brown, D.; Brown, K.L.; Cahill, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gowen, Hanson, Higgins, L. M.; Holloway, Huben, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kisman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C.W.; Stevenson, Stover, Studley, Tarbell, Telow, Treadwell, Walker, Webster, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Callahan, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Dudley, Erwin, Fitzgerald, Fowle, Gillis, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; McColister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C.B.; Soulas, Soule, Strout, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, The Speaker.

ABSENT — Carrier, Laverriere,

Yes, 63; No, 85; Absent, 2; Vacant 1.

The SPEAKER: Sixty-three having voted in the affirmative and eighty-five in the negative, with two being absent, the Governor's veto is sustained.

The Chair laid before the House the following matter:

An Act to Amend the Maine Health and Higher Educational Facilities Authority Act (S.P. 648) (L.D. 1674) (Emergency) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: This bill, 1674, came in under suspension of the rules on Friday. It was passed to be engrossed and today it is up for enactment. I would like to ask if there would be someone here, including the sponsors, who could explain to me exactly what the intent of this bill is, what it does. Since it did not come before my committee, we would like to have some way of defending it.

The SPEAKER: The gentlelady from Hampden, Mrs. Prescott, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: This bill is a simple bill. As I understand it, it is supposed to take care of a technical language situation in the Certificate of Need statute. Under our current Certificate of Need law, any health care facility that wishes to expand or to add major renovations must file a Certificate of Need application and come before the Health Systems Agency for a review and approval before they can do it.

We do have some health facilities that want to refinance, they don't want to add anything new, expand or build anything new, they simply want to refinance and they will have to float bonds in order to do that. There is an ambiguity in the statutes as to whether or not they have to come back to the Health System Agency under the Certificate of Need statute to get approval before they can refinance. It is my understanding that if the Health System Agency says no, we do not have the jurisdiction to review refinancing and we don't have any interest in that, and yet we have bond companies and bond counsel that are looking into the statute and looking at the refinancing plans and are looking at our Maine law and are raising these questions.

So, essentially that is what the bill does. It does not circumvent in any way our current Certificate of Need legislation and the purpose for it, which is to require any health facilities that want to expand and come up with major renovations to come before the agency for approval and review so as to keep down costs to the consumer in the health care fields. So, this is for refinancing purposes. It is a housekeeping measure that essentially clarifies the intent and the language in the statute so they can refinance and float the bonds to do it. That is all it is about.

The SPEAKER: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I thank the good gentleman from Bangor for his explanation. I would like to pose an additional question through the Chair which would ask whether or not there are any other facilities that have gone through this refinancing and this bonding without this technical change that you are asking for now?

My Concern is the fact that we have emergency legislation here today. It hasn't come from my committee and it is dealing with the scope of Certificate of Need. For those of You who are not informed on what Certificate of Need is, I think the good gentleman from Bangor did explain pretty much what Certificate of Need does. It protects the taxpayers and it prevents a hospital from adding on or constructing, any new beds.

My concern with this is the fact that I know we have had major renovations at other hospitals. Maine Medical Center, for example, has gone through some major renovations. They haven't needed this technical change to do that and it hasn't affected the bonding, and I guess what really concerns me beyond that is the fact that my committee, this session, has been struggling with Certificate of Need and specifically with the scope of the Certificate of Need. We have had five bills before us, none of them have been enacted, none of them have been brought out before the full legislature because the committee cannot agree on what the scope of the Certificate of Need will be. We have proposed that we study this over the Summer. I suggest that we study this issue over the Summer along with it, because I don't see that we need this bill at all.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I am one of the sponsors that sponsored one of the five bills that the gentlelady from Hampden is addressing this afternoon. She raised the question, which I am

sure is legitimate, and then went into a reasonable amount of debate with her concern about this particular bill and the absence of opportunity for her to read it and she is worried. Well, I am worried too, because I don't want that good gentelady from Hampden to be uncomfortable, and if I was as concerned about this particular item as she claims that she is, I certainly would have read the bill. So, would some kind member just table it for one legislative day and we will give that gentelady an opportunity to read the bill.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mrs. Perscott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to inform the gentleman from Bangor that this good gentelady has read the bill. She does not see any need for the bill, it is unnecessary at this point. That is what I am objecting to. The fact that the title is even misleading is what bothered me even further, because I missed the bill on Friday when it was passed to be engrossed because it was talking about higher education, and as I looked at it further, I found that it is talking about a health issue, and more specifically the Certificate of Need. Our committee is struggling with that issue and I ask this legislature to allow us to deal with that as a whole and not piecemeal.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Like the gentelady from Hampden, I am confused, because it I heard her a few moments ago, she hasn't read the bill and she didn't know anything about the bill and now she is giving a reasonable explanation for the bill. I would respectfully ask that some member of the House table this bill for one day so the gentelady or her committee can read the bill.

On motion of Mr. Manning of Portland, tabled pending passage to be enacted and tomorrow assigned.

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

Committee of Conference Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Provide a Special Muzzle-loading Hunting Season" (H.P. 281) (L.D. 255) have had the same under consideration, and ask leave to report: that the House recede from passage to be engrossed, indefinitely postpone Committee Amendment "A" (H-333), read and adopt Conference Committee Amendment "A" (H-519) submitted herewith and pass the Bill to be engrossed as amended by Conference Committee Amendment "A" (H-519) in non-concurrence; that the Senate recede from Indefinitely Postponement, Indefinite Postponement Committee Amendment "A" (H-333), read the Bill a second time, read and adopt Conference Committee Amendment "A" (H-519) and pass the Bill to be engrossed as amended by Conference Committee Amendment "A" (H-519) in concurrence.

Signed:

Representatives:

JACQUES of Waterville
CLARK of Millinocket
DAMREN of Belgrade

— of the House.

Senators:

EMERSON of Penobscot
TROTZKY of Penobscot
O'LEARY of Oxford

— of the Senate.

The Report was read.

Thereupon, the Committee of Conference Report was accepted.

The House receded from passage to be engrossed.

Committee Amendment "A" was indefinitely postponed.

Committee of Conference Amendment "A" (H-519) was read and adopted and the Bill passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act to Reform the Statutes Relating to Driving Under the Influence of Intoxicating Liquor or Drugs" (H. P. 1585) (L. D. 1681) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Mr. McHenry of Madawaska offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-521) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will read House Amendment "A" that I am offering. This is to set up a blockade on roads and get the drunks off the road. If we are serious about getting the drunk driver off the roads, this is the only way to do it. Once we set up blockades, I assure you that four or five months down the road, we won't see anymore drunks on the road. They would say, hey, they might have a blockade tonight. I will bring a friend, I will bring a wife, I will bring somebody to drive that car of mine. This is something that I honestly believe, if you want to get those drunks off the road, this is the way to do it, so you don't pick and choose. You don't say, well, this is a doctor's son or this is the selectman of this town, we are not going to touch him, we are going to get everybody, we are going to give them all the tests, let them go through this blockade and constitutionally, if they do not want to stop at the blockade, they can go right through and then we will get them on down the road.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I am embarrassed that an amendment of this type would be introduced on the floor of this House. This is the most ridiculous proposal that I ever heard in my life. I hope you do read this amendment, I hope you do read it. When your mother is coming home from church next Sunday afternoon, some police officer is going to walk up to her and stick a balloon in her mouth and say "blow in this." This is the most ridiculous thing I ever heard of.

I move the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Members of the House: I assure you that my mother, were she driving a car, would not mind having a balloon pushed into her mouth in order to save the life of a kid or a husband or a brother, because these drunks, that is what they do, they kill. You are saying that it is all right, let them kill our people, but when it is your own brother or sister or your wife or your husband or one of your relatives, you will change your minds. I hope you vote for this.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Lincoln, Mr. MacEachern, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. McHenry of Madawaska requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of 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 having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I just want to point out that today our state police or our town police or our sheriffs cannot set up blockades, I want to assure you that they cannot do it. With this amendment on it, they would be able to do it. I hope you vote for it. I hope you vote no on the indefinite postponement of the amendment.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Lincoln, Mr. MacEachern, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, D.; Brown, K. L.; Cahill, Callahan, Carroll, Chonko, Clark, Conary, Connors, Cox, Crowley, Cunningham, Curtis, Damren, Davies, Davis, Day, Diamond, G. W.; Diamond, J. N.; Dillenback, Dudley, Erwin, Fitzgerald, Foster, Gavett, Gillis, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H. C.; Higgins, L. M.; Hobbins, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jalbert, Jordan, Joyce, Kane, Kany, Ketover, Kiesman, Kilcoyne, Lancaster, LaPlante, Lewis, Livesay, Lund, MacBride, MacEachern, Macomber, Mahany, Manning, Masterman, Masterton, Matthews, McGowan, McKean, McPherson, McSweeney, Michael, Michaud, Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Perry, Peterson, Pouliot, Prescott, Racine, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Salsbury, Sherburne, Small, Smith, C. W.; Soule, Stover, Strout, Studley, Swazey, Tarbell, Telow, Theriault, Thompson, Treadwell, Tuttle, Twitchell, Vose, Webster, Wentworth, Weymouth.

NAY — Austin, Brown, A.; Carter, Dexter, Drinkwater, Fowlie, Holloway, Lisnik, Martin, A.; McCollister, McHenry, Mitchell, J.; Randall, Smith, C. B.; Soulas, Stevenson, Walker.

ABSENT — Carrier, Connolly, Kelleher, Laverriere, Locke, Martin, H. C.; Mitchell, L. H.; Post, The Speaker.

Yes, 124; No, 17; Absent, 9; Vacant, 1.

The SPEAKER: One hundred twenty-four having voted in the affirmative and seventeen in the negative, with nine being absent, the motion does prevail.

The pending question before the House is on passage to be engrossed.

Mr. Racine of Biddeford requested a roll call.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I neglected to speak on this bill until this morning because I didn't think that the bill was going to get to where it is now. The amendment is a terrible amendment. It is not quite as bad as the one we just killed but it is approaching that.

First of all, it stipulates that if a person is administered a breath test and it shows a .10 positive reaction, he is automatically guilty of a civil infraction. This means that the officer doesn't have to say anymore. He stops you on the road, you have a .10 breath test, you are automatically guilty. The present law says .10 but it has a prima facie status. Now, for those of you who don't understand what a prima facie status is, it means that it requires further evidence beyond that fact that you have that particular blood test.

In the present state of the law, the officer must be able to say one or several of the follow-

ing things — the car was being operated in an erratic manner, weaving back and forth across the road, it proceeded through a red light. When the car was stopped, the operator got out and he staggered, his speech was slurred and his eyes were watery and bloodshot, and these are all what you call elements of the crime. The present law requires that that blood test, along with some of these other elements, or all of them, build the case for the officer. This bill says, .10 is it and you are guilty of an infraction and you lose your driver's license.

Secondly, it says, as I understand it, if your blood test is .20, whether it is your first offense or your tenth, you are going to go to jail, period. There is no if's, and's or but's, the judge can use no judgement on it. He can't consider the fact that you are a married man with five kids and you have a job that you are going to lose if you go to jail, he can't consider any of these things; he can't give you a conditional license. The bill is just too rigid. I think the courts should have some discretion and I think if we accept Report B of the bill, I think the situation will be taken care of and there will be no injustices. But this bill that we are talking about now is not a good bill and it would unjustly hurt a lot of people. I hope we will indefinitely postpone this amendment so we can accept the other amendment, and I so move.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you oppose my good friend in the back corner on his motion.

Talking about whether you have a first offense, second offense or the third offense it doesn't matter. If you are driving down the road with your family and are hit by a drunk driver the first time out, you are just as dead as though he hit you the second time.

It was brought up this morning that under the Majority Report, that if a young lady with a child was caught for drunken driving the first time, she might have to spend three days in jail. I think what we forget is that at the end of the three days she will be going home, but the lady that got hit by the drunken driver and her child wouldn't be going home. I hope you consider this before you vote.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: The bill before us now, the bill we talked about this morning at that time. I told you we'll hear many figures used, statistics. But I also reminded you that there is only one figure we should keep in mind when we throw the switch on this bill; that figure is 162, the number of deaths that were alcohol related last year. The people out there want us to do something. This bill is our answer, the Governor's bill.

I think now you are witnessing the second time today that an attempt is being made to destroy the bill. This is the bill that we had many hearings on, we had the unanimous support of the District Attorneys Association. We had the unanimous support of the Maine Highway Safety Committee. Yes, we had a lot of support on this bill because the people out there, the message they send us is loud and clear—stop the slaughter on the roads.

I don't like to think about the arrests of drunken drivers, because I found in my career, that included 24 years of night police duty, it mattered not when you went to that home, usually with a clergyman, a priest or minister, to tell the parents that Johnny was not ever again, coming home. It mattered not if he had been killed by the drunken mother with child or by some other important person behind the wheel.

I will take a stab at some of the other figures we have got here. When you are talking .20, the average size person, 150 pounds, it means 10 10-ounce beers in one hour, plus a beer for every hour you are drinking. So if you go out to drink in the evening for four hours, you weigh 150

pounds, it takes 14 beers to reach that .20

Yes, you can get drunk a lot quicker on the hard stuff. I probably could include here, probably one of the safe drinks is our famous Blue Nun who has walked through this House many a time.

Mr. Speaker, I didn't hear Mr. MacEachern, and I am close to him, I didn't hear him make that statement that he wanted indefinite postponement. Would you straighten me out on it and see if it was really made.

The SPEAKER: The gentleman that Report B is no longer before this Body.

The gentleman from Portland, Mr. Joyce, that three members of this staff have it as indefinite postponement. If he wishes to withdraw that motion, the Chair will accept the withdrawal.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I would withdraw my motion to indefinitely postpone and urge you not to accept Report A, so that we could go ahead and accept Report B.

The SPEAKER: The Chair would advise the gentleman that Report B is no longer before this Body.

The gentleman from Lincoln, Mr. MacEachern, withdraws his motion to indefinitely postpone.

Mr. MacEACHERN: Mr. Speaker, I move we reconsider whereby this bill was given its second reading earlier today.

Whereupon, Mr. Joyce of Portland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Lincoln, Mr. MacEachern, that the House reconsider its action whereby this Bill was given its second reading. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Baker, Benoit, Berube, Boisvert, Bordeaux, Brodeur, Carter, Chonko, Conary, Conners, Connolly, Cunningham, Damren, Dillenback, Erwin, Fitzgerald, Foster, Gavett, Gwadosky, Hayden, Higgins, H.C.; Hobbins, Ingraham, Jacques, Jalbert, Kane, Kany, Lewis, Lisnik, MacEachern, Mahany, Masterton, McGowan, McKean, Michael, Nadeau, Norton, Perry, Prescott, Racine, Reeves, J.; Richard, Sherburne, Soule, Telow, Theriault, Wentworth.

NAY — Austin, Beaulieu, Bell, Boyce, Brannigan, Brennerman, Brown, D.; Brown, K.L.; Cahill, Callahan, Carroll, Clark, Cox, Crowley, Curtis, Davies, Davis, Day, Dexter, Diamond, J.N.; Drinkwater, Dudley, Fowlie, Gillis, Gowen, Hanson, Hickey, Higgins, L.M.; Holloway, Hunter, Hutchings, Jackson, Jordan, Joyce, Ketover, Kiesman, Kilcoyne, Lancaster, LaPlante, Livesay, Locke, Lund, MacBride, Macomber, Manning, Martin, A.; Martin, H.C.; Masterman, Matthews, McColister, McHenry, McPherson, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Peterson, Post, Pouliot, Randall, Reeves, P.; Ridley, Roberts, Rolde, Small, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Thompson, Treadwell, Tuttle, Twitchell, Vose, Walker, Webster, Weymouth, The speaker.

ABSENT — Brown, A.; Carrier, Diamond, G.W.; Hall, Huber, Kelleher, Laverriere, Salisbury.

Yes, 50; No, 92; Absent, 8; Vacant, 1.

The SPEAKER: Fifty having voted in the affirmative and ninety-two in the negative, with

eight being absent, the motion does not prevail.

The pending question is on passage to be engrossed. Mr. Racine of Biddeford has requested a roll call vote. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on passage to be engrossed of L. D. 1681. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Austin, Beaulieu, Bell, Bordeaux, Boyce, Brannigan, Brennerman, Brown, D.; Brown, K.L.; Cahill, Callahan, Carroll, Clark, Cox, Crowley, Curtis, Davies, Davis, Day, Dexter, Diamond, G.W.; Diamond, J.N.; Drinkwater, Dudley, Fitzgerald, Fowlie, Gillis, Gowen, Gwadosky, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Jackson, Jordan, Joyce, Kane, Kany, Ketover, Kiesman, Kilcoyne, Lancaster, LaPlante, Lisnik, Livesay, Locke, Lund, MacBride, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; Masterman, Masterton, Matthews, McColister, McHenry, McKean, McPherson, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Murphy, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Perry, Peterson, Post, Pouliot, Randall, Reeves, P.; Richard, Ridley, Rolde, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Stover, Strout, Swazey, Tarbell, Thompson, Treadwell, Tuttle, Twitchell, Vose, Walker, Webster, Weymouth, The Speaker.

NAY — Baker, Benoit, Berube, Boisvert, Brodeur, Carter, Chonko, Conary, Conners, Connolly, Cunningham, Damren, Dillenback, Erwin, Foster, Gavett, Hall, Hobbins, Ingraham, Jacques, Jalbert, Lewis, MacEachern, Masterton, McGowan, Michaud, Moholland, Nadeau, Norton, Prescott, Racine, Reeves, J.; Roberts, Soule, Studley, Telow, Theriault, Wentworth.

ABSENT — Brown, A.; Carrier, Kelleher, Laverriere, Salisbury.

Yes, 107; No, 38; Absent, 5; Vacant, 1.

The SPEAKER: One hundred seven having voted in the affirmative and thirty-eight in the negative, with five being absent, the motion does prevail.

By unanimous consent, ordered sent forthwith to the Senate for concurrence.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

House Divided Report—Majority (8) "Ought Not to Pass"—Minority (5) "Ought to Pass"—Committee on Labor on Bill "An Act to Amend the Workers' Compensation Law" (H.P. 685) L.D. 799)

Tabled—May 18 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either Report.

Thereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once. Under suspension of the rules, the Bill was read the second time.

Mr. Ridley of Shapleigh offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-516) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the

Unassigned Table:

House Divided Report—Majority (8) "Ought Not to Pass"—Minority (5) "Ought to Pass"—Committee on Labor on Bill "An Act to Clarify the Liability of Employers under the Workers' Compensation Act" (H.P. 570) (L.D. 646)

Tabled—May 18 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either Report.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. speaker, I move the indefinite postponement of this L.D.

The SPEAKER: The Chair recognizes the gentlewoman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: Things are going so fast, I don't know if I can find my papers, but I believe this is the bill on consortium.

This L.D. is very unique in the fact that the Workers' Compensation Act provided that anyone receiving disability would be paid. There is a loophole in this Workers' Compensation Act, and it is the person, giving them the right to sue for consortium.

This bill closes up a loophole in the existing Workers' Compensation Act. Under the act, an employer who pays compensation is supposed to be exempt from all other liability for work-related injuries. Because of some ambiguity in the law, some court decisions have been held that an employer who has paid compensation to an injured employee may still be liable in a separate suit for damages brought by the employee's spouse. These decisions have held that the spouse of an injured employee may sue the employer for loss of consortium.

Now, ladies and gentlemen of the House, do you know what lack of consortium is? Loss of companionship, support, society, etc. Now, this money comes right out of the employer's pocket. It is not covered by workers' comp. He would have to have a liability insurance or, if someone prevailed, it would come out of the employer's pocket. It permits double recovery.

If an employee is injured, the employer is required to pay compensation to that employee for as long as he or she is disabled. To permit in addition the employee's spouse to sue the employer for damages forces the employer to pay twice for the same injury. Damage awards in these cases can be very substantial. The same applies in death cases. In those cases, the employer is required to pay compensation to the injured employee's spouse for the rest of his or her life. Yet, the spouse can bring a civil action for damages against the employer, even though he or she is simultaneously receiving workers' compensation benefits. I believe this is unfair to the employer. This, I don't believe, was ever the intention of the legislature.

Workers' compensation was intended to provide an exclusive remedy for occupational injuries. Workers' compensation laws in all states were a trade-off between employers and employees. Under the no-fault system, employers assume limited liability for all work-related injuries, regardless of who was at fault. They also gave up all their common law defenses. Employees and their families, in return, gave up their common law right to sue the employer for damages, but they gained a great deal more, the right to employer paid compensation for injuries caused by their own negligence.

Ladies and gentlemen of the House, I hope you do not vote for the indefinite postponement of this L.D. I think lack of consortium is a farce, and I think you probably all know it.

What do you think about this? Can you believe giving someone a lump sum or a huge amount of money, a lack of consortium? Think about it. Lack of companionship, lack of support, lack of society. You all know what you think about consortium.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker and Members of the House: We were asked to think about what

consortium means. We were told that it was a farce. Well, let me explain to you a little bit what consortium means, what it means to a family where somebody has been seriously hurt, and maybe you will understand why it is that I am going to vote in favor of the motion to indefinitely postpone this bill.

First of all, the right of consortium is the right, as was said, the right of the spouse to sue somebody, an employer in this case, who, as a result of their negligence, has injured a worker, the spouse of the person making the suit. This is completely different than anything else in workers' compensation where fault doesn't apply; there has to be negligence to begin with.

Suppose you have somebody who is working in the woods, they are a double amputee. The wife is pregnant, they will need some type of medical insurance to pay for the coming child. Consortium covers that; nothing in workers' compensation covers that. She has had to quit her job to care for that person, to feed that man, to help him get through the day, to help him with the most simple bodily functions; consortium gives some compensation for what that means. Ladies and gentlemen, that is not a farce. There is no way that money can give back what has been taken away, but it tries to make that bitter pill somehow digestible by giving that right in Maine.

The other thing that we have said is an anomaly, that somehow this couldn't possibly have been the legislative intent. Well, the cases that have been in Maine, both in our federal courts and in our state courts, have made clear the fact that there is no question that this was the legislative intent, that is the reason it is on our law.

This isn't a suit by the worker, it is not a suit by the person who is within that workers' compensation system; it is a suit by someone who is the spouse of that worker, who is trying to get some recovery for the terrible harms that have resulted from a very serious or devastating injury. There has to be negligence for it to occur. In any case, it is going to be ruled on by a jury, a jury of citizens in Maine, to decide whether or not this is a fair return. Truthfully, it is something that doesn't happen very often in Maine. I think the reason it doesn't happen, this type of suit, is because juries look very askance at somebody trying to get something for nothing. But as is the case with many of the serious injuries that are subject to workers' compensation laws, those are the cases that if they are not compensated, they leave the person most devastated. This is something that doesn't appear very often, but when it does, it means everything to the family involved.

I want to tell you one circumstance, one story that we had at the hearing on this bill, and I am surprised, after hearing this, that anyone could call it a farce. We had a woman come in whose husband had been working in a paper plant and he was working on a scaffolding, where the scaffolding had been set up in a faulty way. He took a step, the board that supported him gave way and he fell 40 feet on his head; he lived. In a sense, that is when the problems began. He was in a coma 40 days. When he became conscious, he couldn't move, he couldn't talk, he saw double vision and he had to wear a patch over his eye. All the waking hours of the wife, in this case, had to be spent caring for this man. She testified that their marriage was on the verge of breaking, but they stuck in there and they are doing alright now. He has got some of the movement back on one side now, a lot of the double vision problems have gone away, and as is sometimes the case in brain damage cases, for no apparent reason there seems to be some type of recovery, there is some type of regeneration there.

They got an award, it was a substantial award, through consortium, it paid for some of those costs. As I said before, it could have paid for medical insurance that wouldn't have been

paid for with workers' compensation. It helped them with their mortgage payments; that wouldn't have been paid for with workers' compensation.

Without this bill, there is no way that in that rare case there would be any recovery for that type of loss. That is what this bill is all about, that is what this concept is all about in our law. It is nothing new; as a matter of fact, it is very old, and if we discard it here, we are leaving some of the most vulnerable people in our state with nothing.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: What is at stake with L.D. 646 is whether we want to allow double suing, or that is, double dipping.

The workers' compensation law was set up to be the sole remedy for on the job injuries and on the job diseases. However, because of a loophole in this bill, if a woman's husband is significantly hurt, she can then sue for consortium. In other words, she gets workers' comp through her husband and then, in addition to that workers' comp, she can sue to have additional money. Do you think this is right? Do you think that workers' compensation should be the sole remedy, as I do, or do you think we should allow double suing?

I think this bill is extremely important right now when we think about the business climate in the state of Maine. I am from the Lewiston and Auburn area and with Hillcrest out of business, we are facing a 12½ percent unemployment rate in Lewiston this summer, I think that our people in Lewiston would prefer to work, would prefer to have jobs, but they are not going to have jobs if we don't do something to improve our business climate, and one thing that we can do today is, we can pass L.D. 646 which will state that workers' comp is the sole remedy for on the job injuries. This will make sure that our injured workers get that compensation that they need and, at the same time, it will do a great deal to help the business climate in the state of Maine.

The SPEAKER: The Chair recognizes the gentlewoman from Belgrade, Mrs. Damren.

Mrs. DAMREN: Mr. Speaker, Ladies and Gentlemen of the House: I submitted this bill, it is one of the recommendations of the Blaine House Conference on Small Business. There are people in the country who have become rather sue happy and there must be some end to the liability of an employer. Only two states have this law at this time, Maine and Massachusetts. It has become a very lucrative workers' comp flaw for lawyers.

This, as has been stated, enables the wife to sue over and above the workers' compensation payments if the husband is injured. It is not equitable. If a wife was injured, the husband cannot sue. In today's world, both partners in a marriage are usually employed, they share the earnings of a living, the purchase of a home and the raising of a family, and when an employer furnishes the required workers' comp and employer's liability coverage required by today's law and at today's premiums, then stands to be sued for huge sums over and above the workers' compensation settlement, it could mean the loss of his business.

This is one relief we could furnish the small business owners in our state, and I hope you will not indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to correct a couple of errors in the talks that we have heard so far. First of all, this is not an unusual law, this is not an unusual concept, Maine is not the only state in the union that has it. As a matter of fact, Massachusetts, Texas, New Hampshire, Wisconsin, California all have similar laws. As a matter of fact, it is a trend throughout the country.

What we are talking about here is not, remember, double suing. What we are talking about is — an example that I told you about the fellow working on the scaffolding where there is negligence.

If we vote for this bill, I think one of the questions that should ring in our heads and we should remember after that vote is, what is the message that we have given to the employer? Have we scared employers out of the state or have we given them the message that when there is negligence of this type and when it is devastating to a family, that there are going to have to be steps taken to correct that wrong. There is going to have to be a guard put on that machine, there is going to have to be some care taken in putting up that scaffolding. That is what this bill is all about.

It is not a tool for sue happy lawyers. This occurs very, very rarely in this state. So, in some ways, we look at the constituency that we have, we don't have a lot of people out there on consortium who are going to be jumping at our vote one way or the other. This is a vote that shows some sensitivity to the people that are vulnerable and to the people that are faced with a real devastating disaster. If that happened to us, ladies and gentlemen, we wouldn't call it a farce to have this kind of protection and we would be very grateful that we had the chance to have that kind of protection.

The SPEAKER: The Chair recognizes the gentlewoman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: The Maine courts have unanimously, in approximately a dozen cases over the past six or seven years, found that a wife had a right of action against an employer who was negligent. I listened to that case too. I believe the woman was given \$250,000 for settlement, lack of consortium. She also gets workers' comp. I have compassion for people but I also have a fairness.

I didn't state anything about other states, Mr. Hayden.

Do you want to have an employer have it come out of his own pocket to pay workmen's comp, to pay \$250,000 for lack of consortium? Do you think that is the way that we started with workmen's comp? That is what it is about, ladies and gentlemen.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: One dozen cases in six years, that doesn't seem to be too much considering the rate and the kind of accidents some of our workers have. We are hearing comments about the employer — is it fair for the employer to be paying if they are sued and the suit is successful from the claimant's point of view to pay out of his own pocket? Workers' comp, ladies and gentlemen, is paid by all of us. I assure you that the employers paying into the system are getting repaid somehow.

As far as I am concerned, there is no loophole in our current law. The unemployment rate has nothing to do with this issue. This is not a suer's heaven bill, as it has been promoted.

The woman who came before us gave us a very good example of what a serious accident can do to a family. In many instances, the wife that nurses her injured or ailing husband now has a right to some form of compensation, and remember that in every case, the employer's fault that caused the injury is the key as to whether or not anyone can collect under the current law.

A wife and a family suffer, as well as her husband, when he is severely injured, and please, for the record, she is not the one that gets the workers' comp, he does.

There have been but a few successful claims of this nature in our state and they have not been very expensive, but they have meant an awful lot to those families. Ask the woman in my neighborhood who is the wife of an amputee and she must transport and clothe and bathe

and sometimes feed this man. She had to quit her job, a loss to her for which there was no other way for her to claim.

Mr. Hayden was right; Massachusetts, Texas, New Hampshire, Wisconsin and California have laws similar to ours, and I don't think it is the time for this state to take a step backwards in discarding what I think is a very important right and a very crucial issue for those who are left behind after that man has been badly hurt.

I have heard people say, why is it that just the wife has this prerogative? I would have no objections if the husband had the same prerogative. However, it is the male members of our society that tend to be in the most hazardous occupations.

Severely injured husbands cannot do an awful lot for the family; many of them can't even play with their children. The physical and mental pain placed on a family and, really, when a man is badly hurt, in these instances, for them to even file a claim it has to be a severe injury, the burden, the head of the household, becomes the wife, and it there is very little in the way of her being able to support herself and take care of her family and let's face it, workers' comp does not give you a livelihood, ladies and gentlemen, then there has to be some kind of mechanism where she has to assume the role as the head of the household and try to protect herself and her family.

This is not an unfair mechanism to be utilized, it is not utilized extensively, and I, for one, am glad that it is in place and I ask that you keep it in place. I request 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 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 having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentlewoman from Vassalboro, Mrs. Mitchell, that this bill be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Fowlie, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Norton, Paradis, P.; Paul, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C.B.; Soule, Swazey, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Conary, Conners, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Pearson, Perkins, Peterson, Randall, Reeves, J.; Salsbury, Sherburne, Small, Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Tarbell, Telow, Treadwell, Twitchell, Walker, Webster, Wentworth, Weymouth.

ABSENT—Carrier, Carter, Laverriere.

Yes, 74; No, 73; Absent, 3; Vacant, 1.

The SPEAKER: Seventy-four having voted in the affirmative and seventy-three in the

negative, with three being absent, the motion does prevail.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Tabled:

House Report—"Leave to Withdraw—Committee on Labor on Bill, "An Act Concerning Workers' Compensation Cost Containment" (H. P. 502) (L. D. 553)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

On motion of Mrs. Mitchell of Vassalboro, the Bill was substituted for the Report and the bill read once.

The SPEAKER: Is there objection to giving this bill its second reading at this time?

The Chair hears objection.

Thereupon, the Bill was assigned for second reading later in the day.

Passed to Be Engrossed

Bill, "An Act Concerning Workers' Compensation Cost Containment" (H.P. 502) (L.D. 553)

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

Mrs. Mitchell of Vassalboro offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-515) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: The amendment that I have just offered for your consideration has to do with placing a cap on the amount of adjustment that is given to a worker who is receiving workers' compensation benefits. This House and the other body have gone on record as saying we are attempting to do something to stop the escalating costs of workers' compensation insurance. One of the measures that we considered earlier in the session was putting a lid or a cap on benefits. Many of us were very concerned that that was a very harsh effect on the person who is very seriously injured and out of work for a long time.

Just to review for your consideration, under current law, an injured worker, every July, receives an adjustment in his compensation benefits. That adjustment is based on the increase in the average weekly wage. As you all know, that is not equivalent to inflation, it runs below inflation, so the worker who is receiving these benefits is still not keeping up with inflation under current law.

The cap would push this individual further and further behind, so we have attempted to come out with a method which would deal with the cost savings of the majority, in fact about 95 percent, I would venture to guess, of all the people who are injured under worker's comp who are out for a short time, they would be covered by a 5 percent cap. If the average weekly wage increased by 11 percent, the only adjustment they would get would be a 5 percent adjustment.

However, after three years, because we are concerned about people with severe, long-term injuries, if they are more than 50 percent disabled, the cap would come off and they would simply revert to the old system of following increases in the average weekly wage. This would, over a 30 year period, if they are falling 5 to 10 percent behind a year, you can imagine what is going to happen to an individual's standard of living.

I think it is very important to know that we are talking about most of the cases being in the early categories falling under this cap, very important to make that distinction.

We have also exempted widows. If she is receiving death benefits, the cap does not apply, she has to continue as the sole support of the family if she has lost her husband. It is very

important that we put a lid on the cost increases without any injuring the worker and this is what this proposal is meant to do.

I urge your support of this House Amendment.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: Things are coming very fast and furious this afternoon and what has just happened is that the gentlelady from Vassalboro is talking about the cap. The cap used to be L.D. 789, and L.D. 789 is still on the table. However, in order to have a second shot at the cap, the gentlelady from Vassalboro is substituting a cap amendment for L.D. 553. L.D. 553 originally talked about something totally different from a cap.

Let me explain to you why the cap that the gentlelady is suggesting is nice but is not really everything that we should be hoping for.

I first would like to talk about inflation. As we said to you the last time we debated the cap bill several months ago, the inflationary adjustment that a worker receives on his workers' compensation is related to the average weekly wage. It is not related to the consumer price index, it is not related to inflation raging in the world outside of us, it is related only to the wages that a worker receives, and those wages in Maine, on the average, have increased approximately 5 percent a year, which is why the original cap bill called for a 5 percent cap.

The gentlelady from Vassalboro is concerned about people that are on workers' comp for a long amount of time and, first of all, I would like to point out that any worker who is going to be on workers' comp for a long amount of time can always opt for a lump sum settlement. I attended a hearing at which Commissioner Devoe presided last Friday afternoon and I watched huge lump settlements being handed out, lump settlements of \$50,000 in which the worker was expected to invest this money and receive approximately \$8,000 a year back in interest, and this is if he invested very safely. If he would invest it in the money market or whatever, he certainly could have received much higher than that in income. So, I would like to suggest to you that worker who is going to be out for a long time can certainly do even better than this cap does if he opts for that lump sum settlement.

The reason why I find this amendment really difficult to deal with today is the fact that it is only going to save on the rates approximately 2 percent of the cost. That original cap bill that we were talking about, L.D. 789, was going to save approximately 8 percent on rates. We have all been getting this mail from constituents, particularly businessmen, and were told that rates were too high. I ask you, do you want to settle for a cap that is going to save about 2 percent on rates or would you like to go with a cap that is extremely fair and will save 7 to 8 percent on rates?

So, I guess what I am saying is that if we pass this cap, okay, but we really can do better. We can do a lot better when we have 789 in front of us and we can deal with that cap as we originally intended to deal with a cap.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker and Members of the House: Let's talk about fair. If you are an injured worker, out of work for 10 years and you are losing 10 percent a year in your earning power, 30 percent behind over 10 years is not what I call fair.

I would also like to remind you that for 1980, the average weekly wage in Maine increased by 10.6 percent. Inflation was 13.5 percent. Now throw in a five percent cap and see how well a person can survive who has been totally injured on the job.

I hear conversations from many members in this body that they do not want to reduce bene-

fits. That was at least the initial remark that we heard in this body, they don't want to hurt the injured worker. Well, if they don't want to hurt the injured worker, to put a straight 5 percent cap on what an individual can receive in benefits who is injured on the job, a genuinely injured person, is not at all fair and it clearly does injure an injured employee.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The gentlelady from Vassalboro has suggested to you that workers on workers' compensation are losing their earning power. I would also like to point out to you that workers who are working are losing their earning power, that is what inflation is all about. As prices rise, wages are just not keeping up with those prices. All of us who are working know darn well that our earning capacity today is not what our earning capacity was five or ten years ago. So, if we want to talk about fairness, certainly we are confusing the fact that the cap is related to the average weekly wage and is not related to the consumer price index, and on the average over the past decade, that rise in the average weekly wage has been approximately 5 percent a year.

The gentlelady from Vassalboro, Mrs. Mitchell, has pointed out to you that we want to be fair, we don't want to take away any benefits, and so I would like to suggest to you that this amendment is extremely hypocritical, because as we are being told on the one hand that a cap of 5 percent is unfair, we are being offered an amendment by the lady from Vassalboro which is going to put on a cap of 5 percent for three years, so I would suggest that this is extremely hypocritical if we are saying on the one hand that a 5 percent cap is unfair, and on the other hand we are sticking on an amendment that has a 5 percent cap.

I would suggest to you that if you would like to save a little bit on rates, pass this amendment; if you would like to save a lot on rates and be truly fair, then let's pass that other amendment.

I would also like to remind you that 35 states have no inflation adjuster whatsoever, so that when we do pass a 5 percent cap, we are still going to have better benefits for our injured workers than workers have in 35 other states.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: First off, I would just like to explain that this amendment is by no means hypocritical; in fact, it is very consistent. What we have been concerned about, and I know that many of you have been concerned about, is those people who are going to be on long-term workers' comp collecting two-thirds of their salary, that is long term, and we have kind of drawn the line at three years. We are saying that anybody who is on workers' comp up to and including three years would be under the 5 percent cap. Anybody beyond that time, however, would be excluded from that, because we are saying we are concerned about the person who is going to be on long term, 5 years, 10 years, maybe life.

The gentlelady from Auburn, Miss Lewis, mentioned about the savings of this cap at 2 percent and the other one at possibly 7 or 8. I am not sure if those figures are accurate or not, I have not seen any data that supports that, but let's suppose that is true. If those figures are, in fact, true, we are saying that the difference between the 2 percent and the 7 percent or the 8 percent are those long term people. If that is the case, I am willing to go on record saying that I will give up that 4 percent difference if we are talking about the real hardship and survival of someone who is on workers' comp for a long, long time.

The other concern that she mentioned, the other solution she mentioned, was the fact of the lump sum, a lump sum of \$50,000, \$20,000,

\$10,000, whatever it might be, that does not solve the problem, ladies and gentlemen, it does not solve the problem at all, because we are talking about longevity, and that has been the position that I have had, and many others, all along, ever since last February. I know that some of you feel the same way because I have talked with you.

I would say the amendment is very, very consistent and I would say the difference and anything else you might hear is that there is a definite attention paid to that person who is on long-term workers' comp. This amendment is capping 95 or 96 percent of the people but it is letting the other 4 or 5 percent go because of their longevity.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: I think Representative Lewis may have unwittingly hit the nail on the head when she said "we really don't have a problem — the person on long-term comp, that person should not be in any trouble because they could always lump sum settle their case." That is exactly what the insurance industry wants. When you have somebody that is put in a pickle, let's take that double amputee again, somebody who doesn't have enough to get by, who is watching inflation month after month eat up the set amount of money they have coming in, they can come to them and then they have a big stick to pound out a compromise with them to make them concede. What they will concede is, look, we will give you several thousand dollars now, we will give you \$40,000, the big lump sum settlements that Representative Lewis said that she noticed being awarded. Well, think what that is going to mean to a 25 year old man who is going to be disabled for the rest of his life; \$40,000 may get his mortgage paid for several years, but what then?

That is one of the hidden agendas of many of these cost saving bills. It gives the insurance companies, the insurance industry, a chance to have a club with a worker who has found himself in a very vulnerable position. Inflation is going to eat it up, he is going to be forced a lump sum to settle this or end up with nothing, and that is just the thing that our cap is trying to avoid while still giving some of the benefits that can be gotten in terms of cost saving by having a cap in the first place.

The SPEAKER: The Chair recognizes the gentleman from So. Portland, Mr. Kane.

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: In regard to whether or not this is hypocritical or not, I would just like to remind everybody that we may disagree but we could avoid being disagreeable about it.

The whole point of this amendment is the 5 percent cap on those people who are not totally disabled or don't go on for a lifetime disability. The example that Mrs. Mitchell was beginning to get to I think I would carry on a little further. If a fellow was disabled and he starts out with two-thirds of his weekly wage, and assuming that we have inflation of 12 percent a year, which is mild compared to what we have been having for the last few years, maybe the administration in Washington will change it and maybe they won't, but assuming that we have 12 percent a year, within 10 years, which isn't a very long time, that person would be down to a clean one-third percentage of his adjusted earning capacity. Year by year it doesn't seem very much, but add it up for 10 years and it destroys the benefit.

The SPEAKER: The Chair recognizes the gentlewoman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Labor Committee, I want to be on record as being in favor of all the bills that you hauled off the table this morning that help the injured worker because I play fair. Multiple injuries, second injury, return to work, we had 42 work-

ers' comp bills in our committee and we have given 8 "Leave to Withdraw," four "Ought Not to Pass" and we have put six out that you are going to hear about — these study bills on occupational disease laws, that you can study about loss of hearing and so forth, they have been given "Leave to Withdraw" and will be asked for a study report.

We have had 18 bills that we have agreed on that have helped the workers. We have 6 divided reports here and we just went through the first one. These are the reports that business has asked us to take a hard look at, loss of consortium, the 5 percent cap, you are going to hear the direct pay, you are going to hear the attorneys' fees and the permanent impairment benefits.

You have a big decision here to make. You can look at some of these bills and answer when you go home, did you do as much for both sides? I am going home because I tried and I am on all of those reports this morning that you have tabled or asked to be indefinitely postponed, to come up with another package, 424, 491, 553 and 590. I sat in the Labor Committee and we listened to these people and we came up with an idea and unanimous reports. But think of these other bills we are now debating.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Yes, indeed, the decisions are big here and our committee made many of them; 81 unanimous reports came out of the Labor Committee even though we were laughed at and criticized. So now we are down to, some of us are intent on protecting the injured worker and also intent on trying to do something for the man and those who have to pay the bills. But let me tell you something, we are not going to do it at the expense of an injured worker, especially when he was hurt on the job and not necessarily through his fault. We should not be doing it.

In my caucus this morning, I told my fellow members of my caucus that I hated this bill and I hate it with a passion, because I don't think there should be a cap on anything when it comes to trying to preserve some financial stability for somebody that has really been hurt, especially when we are looking to this amendment as somebody who is more than 50 percent disabled.

Yes, we did pass bills to allow vocational rehabilitation and to get people back on the job and to look at occupational disease, but I would find it inconceivable that people could not begin to adopt and look at this amendment as a reasonable one.

Most injured workers tend to be young people or people in their middle years where they are paying or were trying to pay their mortgages and put their kids through school and pay their bills. Lump sum settlements are not unusual, and we will hear the injured workers tell you about insurance carriers coming to their hospital beds asking them to settle on a claim. We don't want this to happen to any citizen in this state.

I find kind of interesting the figures that are being thrown around too. All of a sudden, this amendment potentially can only save 2 percent instead of saving 8 percent, really incredible, because when the Blaine House Conference on Small Business took place and they asked us to think about a cap, they, themselves, couldn't even come up with a figure to recommend.

I think what is being proposed is rightful, it is not ambiguous. We are trying to protect 5 percent of our population who will never be able to go back to work. If I had my way, we would leave things just the way they are.

I hope you will vote on this issue and if a roll call has not been requested, Mr. Speaker, I would request one.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker, Ladies and

Gentlemen of the House: This is not my bill and the package to debate on, so I will be very brief. I would just like to point out one clarification that was raised by I think the gentleman from Durham, Mr. Hayden. If you have got the case of a double amputee who loses both arms, say on a job working in the woods as a wood cutter, in addition to the weekly comp benefits that that gentleman would receive, and we are talking about placing some cap on the rise, the annual increase in those weekly comp benefits, that person would also receive 200 weeks worth of his payments in compensation, called permanent impairment, for each arm, so if you lose two arms at 400 weeks towards whatever you were receiving, let's say you were receiving \$200, that is \$80,000 in a lump sum check. The gentleman would receive that money, \$80,000 to invest to generate income for him and his family or to do whatever else he had to do. His medical bills, by the way, that relate to his injury are being covered by the insurance company, so he would have that in addition to his weekly compensation benefits.

Most people also take out, if you will look at your own insurance that you have along with your house when you bought it, on your mortgage, you also take out disability insurance that goes along with your liability insurance so that if anything happens to you as the bread winner and you are not able to pay the mortgage on your home, the insurance company, this is a separate insurance company, picks up the mortgage payments on your home.

So, in most cases, you receive your permanent impairment in a lump sum check, which can be very, very substantial. In most cases, your mortgage payments are covered by another insurance policy that you have that goes along with your mortgage with the bank, and then you are receiving your weekly comp benefit check, and that is what we are talking about here, is holding down the annual increase in the rise of that benefit. We are really debating between a two, three percent, maybe even only a one percent cost savings a year and an eight percent cost savings. You know, it really is a very small amount of money that we are talking about in terms of cost savings whether you go with the one percent or the eight percent.

I would urge you to go along with the full eight percent.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I just want to speak a second about the effect on rates. If you don't have any cap after three years, you are going to be playing right into the hands of the insurance companies, because they will set up their reserves on any old basis that they want to and their guess is just as good as mine as to what it ought to be.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Member of the House: Mr. Perkins has raised a very valid concern, but I believe that we are attempting to pass legislation which would require the disclosure, so the insurance companies cannot just set up their reserves any old way they wish to do so.

Just for your information, some of you have asked me, how many people are we talking about who would be covered by this cap? I don't have statistics for everyone, that is one reason we passed the data study today in terms of knowing how many people were in what category, but for one operation in Maine, Northern Maine Loggers, a group that is self-insured, is one of the highest risk industries in the state of Maine that pays the top of the scale in rates—number of employees injured last year, out from zero to one year, 743; one to two years, 16; two to three years, 2.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of 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 having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: It has been a long and winding path that has gotten us to the position that we are in today. We have had a number of bills before this House for a long time now and we have dealt with some of them in a bipartisan manner, in the true spirit of compromise, and I think we should be applauded for that.

I think the issue today boils down to, I know initially there were a lot of terms flowing around here that the issue of workers' compensation was just too complex for this body to comprehend. Well, I submit to you today that the issue has been boiled down to a little bit less complexity than it has in the past and the complexity has been removed by simply asking yourselves, I guess, the question, do you really want to make a change in the business climate reflected in workers' compensation costs out there today? I submit that if you vote for this, you are not. It is a camouflage and that is at best. I don't mean to cast any disrespect on the intent of the opposition party for attempting to sponsor an amendment such as this, but the point is, the bottom line is, this bill does nothing to make a change in the cost of workers' compensation to our business community out there.

A lot of us came in here listening to our people back home tell us about how they were really getting hurt by workers' compensation costs and we all came up there and said we were going to do something about it. I know a lot of people would like to portray the fact that the big bad business community out there is trying to hurt everyone in the state and take advantage of people. But you and I know that there are a lot of small businesses out there, right in our own districts, and chances are that those are the businesses we listen to, because those usually are the Mom and Pop stores that let us put our campaign signs up every year and wish us well when we come up here and ask us to do them favors and they employ people in your own communities, and those are the kinds of people that are getting hurt.

The large businesses don't care, perhaps, what their costs are, they are going to move out of the state of Maine. General Electric is already talking about moving out down in Portland, can't necessarily attribute it to workers' compensation costs, but the fact is, large businesses, ten or fifteen million dollars is not a great sum to them, they will close the plant down and move out of the state, but the poor guy back home who has five or six or ten employees in our own districts, he doesn't have the flexibility to do that.

You are talking about jobs, jobs for our local people and, yes, jobs for people moving in from out of the state. We spend hundreds of thousands of dollars here every year in our budget through guarantee loans that we have already talked about today, through the Development Department over there in trying to get people to move into the state of Maine, and yet we still refuse to accept the fact that we won't make some change in the law here that will make a difference to the businesses that are already here in the state who want to stay here. It is always, can't we move in 200 new jobs from out of the state, but we refuse to accept or reflect on the fact that we have lost 200 jobs because some business that is already here has moved out of the state of Maine or has gone bankrupt or defaulted, whatever the case might be. We lost sight of that.

I submit to you that if we really want to make a change, if we want to help the business community, we want to provide jobs because that is

the bottom line, we all agree to that, but those jobs are not going to be there if the business climate is not accurate, is not good. Jobs and industry go hand in hand, you can't have one without the other, and if we continue to ram cost increases down the business community's throat, they are just going to leave the state of Maine and then all those people who belong to the labor movement are going to have to move to some other state and there won't be anybody here to provide our tax base. Maybe it is a small lesson in economics but I think it is one that we all need to recall.

We have just had a 25 percent increase in workers' compensation cost, and I submit to you that before this year is over, we will have another increase between 24 and 50 percent whether we pass these bills or not, and we have already stated many times on the record, we are not talking about cutting premium costs, we are talking about slowing down the increase in those costs.

Can you imagine what it is going to be like if we don't make a change here and they start talking about another 25 to 50 percent increase, which they already are, for this year, which will make it somewhere near 50 percent. How can our businesses compete with other states and with other nations if we continue not to look at what we are doing here? We can give lip service to it, but if we are really, sincerely concerned, we will take this bill and we will get rid of it and we will pass a meaningful cap, because it has been said here already that this bill will not reduce premium costs to businesses by no more than 3 percent.

When the good gentlelady from Vassalboro and I sat down a couple of three weeks ago to try to come up with a compromise on this issue, we came up with five years and more than 50 percent disabled cap, similar to what we are talking about here. I had it checked through some people that are not involved and are not lobbyists, because that is a dirty word, checked with some people back home that I felt were competent to find out what the answer was and the answer came back to me that that cost would be a savings of not more than three percent and probably close to one percent.

This amendment that is being offered here today is even less than that. Instead of five years, it is three, and instead of more than 50 percent disabled, it is 50 percent or more, so we have narrowed the time and we have opened it up a little bit so that more people fall into it.

I applaud the attempts to try to come up with something, but this is just not the answer. It can be the answer if you want to go home and say I voted for a cap but is is not the answer if you really mean it, if you really mean to tell your business people back home that you have come up here and tried to change the system so they can compete and make some money and employ people back home that will vote for us in November of 1982.

There are two reasons why this is not going to work and even the five percent cap for five years probably would not work. Number one is the reserve requirements. We have already talked about that. In order to lower the premium increase to our business community, they have got to be able to substantiate and be able to count on a cost, a fixed cost: 10.4 percent or 10.6 percent was already mentioned here today, that is what kind of an increase is going to be granted this year. That is a far cry from 5 percent, there is no question about that but, at the same time, the insurance companies have to allot for that. If they have to start allotting 10 percent rather than the 6 percent that they are allotting now, the rates are going to triple, they are not going up 25 percent, which leads to the second problem.

The second problem is, there are so many long-term cases out there, that is the reason why a five year or a three year cap doesn't work. They may be small in number but they

are the largest settlement cases. There may be only 5 percent of them, but they are the ones where if you are going to make a change that is going to make a difference, you have got to affect them.

I hope today that you go against the motion to adopt this amendment so that we can really sit down and try to come up with something that is going to help industry, that is going to help the jobs for the people of this state, and I mean that sincerely. I hope you will go against the motion to adopt the amendment.

The SPEAKER: The pending question before the House is on the motion of the gentlewoman from Vassalboro, Mrs. Mitchell, that House Amendment "A" be adopted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YE A — Baker, Beaulieu, Benoit, Berube, Boisvert, Brannigan, Brennerman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Fowlie, Gwadodsky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Roberts, Rolde, Smith, C.B.; Strout, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster The Speaker.

NAY — Aloupis, Armstrong, Austin, Bell, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Conary, Connors, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Hanson, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Paul, Perkins, Peterson, Randall, Reeves, J.; Ridley, Salisbury, Sherburne, Small, Smith, C.W.; Soulas, Soule, Stevenson, Stover, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Carrier, Carter, Cunningham, Gowen, Laverriere.

Yes, 77; No, 68; Absent, 5; Vacant, 1.

The SPEAKER: Seventy-seven having voted in the affirmative and sixty-eight in the negative, with five being absent, House Amendment "A" is adopted.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mrs. Mitchell of Vassalboro, the following matter was taken from the Unassigned Table:

HOUSE REPORT—"Leave to Withdraw"—Committee on Labor on Bill "An Act Relating to Attorney's Fees Under the Workers' Compensation Law" (H. P. 565) (L. D. 641)

Tabled—May 15 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

On motion of Mr. Diamond of Windham, the Bill was substituted for the Report and the Bill read once.

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

Mr. Diamond of Windham offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-513) was read by the Clerk.

Mr. Gwadodsky of Fairfield offered House Amendment "A" to House Amendment "A" and moved its adoption.

House amendment "A" to House Amendment "A" (H-524) was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, perhaps someone could inform the House just what House Amendment "A" is going to do?

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: This amendment is trying to deal with an issue which we all thought was rather important and that is the attorneys' fees as far as their involvement in the workers' comp system. Right now, that system pretty much provides an incentive for attorneys to kind of get involved in every potential case coming down the pike and we are kind of concerned, as many other folks in here are, about ways of stopping that, because the bottom line in this whole workers' comp situation is lowering rates or certainly freezing rates for the employers. So what we are proposing in this amendment, H-513, what we are trying to do is simply say to the attorney, if you take on the case and you lose on the first step petition for award, then you are not going to get paid.

We are hoping what this will say to the attorneys is this, that we want you to stop and take a look at what you are doing. Look at the case, analyze it, and then decide if it is a valid or worthy case of running with it, because if we don't and we leave the system the way it is, then it is going to be increasing the incentive and asking them to go on and on and on and jump on about all the cases that come their way.

So again, what we are trying to do is say to the attorney, slow down, take a look at it, carefully analyze it, because if it is a frivolous case, a case that is out of the way, then you are not going to get paid for it.

We are also saying to this same attorney, if you can work out a negotiation between you and the employer or the employer's lawyer, then you are going to get paid and everything is all set. We are trying to reduce the litigation, trying to say slow it down.

There is one more important ingredient in this whole matter and that is the employee, because the employee, in many of these cases, is told to go ahead and get your attorney and run with it, nothing to lose when many people realize that that employee has no chance of winning. We are asking for honesty on the employee's side and a little more incentive or a little more analyzing on the attorney's side, so that is what this amendment attempts to do.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: We are now being presented again with the same kind of situation that we saw before with the cap bill. The original bill, as presented to us, would do a lot to help rates and to stop litigation. The compromise that is being presented from the far corner does something but it doesn't do everything that it could do.

As the gentleman from Windham has pointed out, what this bill talks about is attorneys' fees only at that first stage, but what about all those subsequent appeals? The original bill said that attorneys would be paid at any stage in the game only if they won the case and this is the way it is done in most other states in the nation.

For example in Ohio, the attorneys are not paid at all out of the workers' compensation fund, but each injured worker pays for his own attorney. What we are suggesting in Maine is that the workers' compensation fund will pay when the worker wins.

In cases where the attorneys are not paid by the workers' compensation fund, what happens is that attorneys take the cases on a contingency

cy basis, and that means that the injured worker still gets the representation that he needs but the attorneys pick and choose before they accept cases so an attorney knows if it is a frivolous case and never take it in the first place. If he feels that the worker has a fighting chance of winning, he will fight that case for that worker and then, if he loses, he will say to the worker, I am sorry we lost, you don't have to pay me, I am taking this on a contingency basis. That is the way it works in the rest of the nation.

Here in Maine, we have a workers' compensation statute that is a lawyers' heyday; lawyers love to take workers' comp cases because they know that they are going to be paid no matter what happens. We have situations in which attorneys are not necessary at all. For example, in the city of Auburn recently, one of the road workers got hurt, the city said yes, you got hurt, was all set to pay him and the worker goes out and gets an attorney. They pay the attorney and then they pay the worker what they would have paid him in the first place. This type of thing is absolutely unnecessary.

What the amendment offered does for you is, it says, okay, attorneys' fees won't be paid at that first stage, but what about all those subsequent appeal stages? Well yes, attorneys would be encouraged to file those appeals because, again, they would be paid win, lose or draw.

The original bill is a bill that says attorneys will be paid at any stage of the game only if they win; they won't be paid in those cases where they lose or in those cases where there is a draw. That is the bill that will help cut down rates; that is the bill that will help cut down litigation. If you would like to vote for something, fine, vote for this amendment, but if you really want to help the workers' compensation system, you will wait for that original bill.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: Essentially what this bill does, it tries to implement the recommendations of the Blaine House Conference on Small Business. Unlike the workers' compensation laws in other states, as has been explained, Maine law presently requires an employer to pay a claimant's legal expenses.

The bill that we are presently voting on in the amended version, segregates the difference between the phases of claims processed into these three separate categories. I guess the greatest potential for abuse and, as Mr. Diamond said, for frivolous claims, occurs in its initial stage; therefore, attorney fees for employees are assessed only if the employer prevails. If the employee does not prevail, the attorney is forbidden from attempting to collect his fees from the employee. In this manner, the attorney, not the employee is penalized.

There is no restriction on when an employee can secure legal counsel. If the attorney reaches a negotiated settlement with the employer, his fees may be a part of that settlement.

I guess since these cases involve requests for adjustment based on technical questions, not on findings or facts, attorneys' fees are assessed without regard to which side prevails. Fees may be adjusted by the commissioner if he feels they are not justified and actions must be brought in good faith.

In all cases, the employer-initiated actions, the employer is assessed for the employee's attorney fees. I feel it is a fair and reasonable thing to do and therefore I urge you to support the bill in its present form.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, I would like to pose a question through the Chair to anyone who may care to respond. Would somebody explain to me what the term or the phrase, "when the employee has prevailed in obtaining a first decree of compensability?"

The SPEAKER: The gentleman from Fryeburg, Mr. Kiesman, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Members of the House: If the gentleman from Fryeburg is referring to the first page of the amendment, when an employee has not prevailed in obtaining a first decree of compensability, that means that he has not won the first petition for award, not won the first stage, and if that is the case, the attorney does not get paid, and that is the essence of this amendment, which is what we are trying to do, and that is to lessen the incentive.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, I would like to pose another question through the Chair. It is my understanding that in comp cases, there are usually two questions right off the bat. The first is, was the individual hurt? And the second question is, how much? Now is the question, was he hurt, the first decree of compensability, or is the first decree of compensability both questions, was he hurt and how much is the compensation going to be?

The SPEAKER: The gentleman from Fryeburg, Mr. Kiesman, has posed another question through the Chair to anyone who may care to respond.

The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: The first decree of compensability means that the person, the employee, has either won or lost at that first stage. If he has won at that first stage, then it is probably settled unless there is an appeal that is going to take place, so that simply is saying at the time of the case, is he going to win or is he going to lose? If he wins the decree, he is going in; if he loses, then the attorney does not get paid and the employee has other options that he will have to explore.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Members of the House: I don't think my question was answered because what I am trying to find out is the fact that if he does win the question of whether he was hurt, is that the first decree of compensability and therefore the payment of the attorney is approved, or does he have to win the question of was he hurt, and the second question, how much is he going to be paid? It is my understanding that usually on a case such as this, there is little question but what the guy was hurt. Well, the argument comes in, how much is he going to pay for it — to what degree is he hurt, is he 20 percent disabled, is he 50 percent disabled or is he 75 percent disabled? Does the first decree of compensability include the percentage of disability in that first claim?

The SPEAKER: The gentleman from Fryeburg, Mr. Kiesman, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: The question of the first decree or the first award is, was the person hurt in the work place? That question is answered yes or no. If that person is hurt in the work place and established that the employer then is in debt or must pay or the company, insurance company must pay that employee at that point, then that goes on from that situation.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will make a statement now that I have my questions answered.

It appears to me that this is somewhat of a farce, this whole amendment, in that there is very infrequently a claim for compensation but what there is agreement that there was an injury. Therefore, automatically he has won the first phase and the lawyer is going to get paid. It is my understanding that usually the disagreement comes on the amount of the disability, how badly is he hurt? Usually if a guy falls down on the job, there is an agreement that he hurt himself. The lawyer has got it made. He is going to get paid.

So I say that this amendment is a farce.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: That is not the case at all. The question is, was the employee hurt in the work place? That is the question that has to be settled in the first award. If the employee was hurt in the work place, then that is the question that the employer, of course, is most interested in, as is the employee. The percentages or whatever else is really of secondary concern. Once it is established, for example, that the employer is responsible for the accident and would then be responsible for the employee, then that is the major question.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I must rise in support of my good friend Mr. Kiesman. He has hit the nose right on the head, or however that metaphor goes, I am not really sure. The point is that most of the litigation does not have to do with the first decree of compensability. Most of the litigation has to do with what is called the extent of disability, and that is whether the person is totally injured, partially injured or how much injured.

The original bill that we have now substituted the bill for the report, L. D. 641, which is one of the major recommendations of the Blaine House Conference on Small Business, and that original bill says that in all of these proceedings the attorneys only get paid when the attorney wins, and includes that small degree of cases which have to do with the first decree of compensability and also has to do with that larger group of cases which have to do with the extent of disability.

I do hope that you will defeat this amendment so that we may then proceed to vote on the original bill, unamended.

The SPEAKER: The pending question is adoption of House Amendment "A".

Mr. Higgins of Scarborough requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of 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 having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman from Old Town, Mr. Paradis, sent me a cough drop so, unfortunately, you are going to have to listen to me one more time.

I think the same issues that were brought on the previous vote that we had on the cap pertain even more so for this particular bill than the other one. This particular bill, I would remind the House, in no way reflects or affects the benefits that the injured employee is receiving. We are not talking about reducing any benefits to anyone except the attorney. Someone here before us said something about what kind of a system this was for attorneys — the fact of the matter is, this is a bonanza for the attorneys in this state and you have seen many of them combing the halls here in the last few

weeks and months to protect their self-interests on this issue.

It is guaranteed, any employee that comes in to my office, if I am an attorney, and says, represent me, I fell down on the job, I know that I am going to get paid, whether or not that employee actually did fall down on the job or he did not, and whether or not my fee is commensurate with the work that I put in, there is no way of judging that. I know the commission has the ability to say, well, that fee is too much, but I submit to you that they don't do that very often, if at all.

The fact is also that 80 percent or more of cases that this bill would affect are already getting paid, because 80 percent of those cases are being adopted by the commission anyway. So we are talking about a small number of cases, again, like the last bill, that it is going to make any difference on, and it is probably not.

I can't, for the life of me, understand why employees would not want the original bill. I am going to vote against the amendment here and we will have a clean bill. The clean bill says, if you represent me, you do a good job and we win, you get paid; if you don't, then you don't get paid. What can be any simpler than that? What can be any fairer than that for the employees of this state? They know if they go to an attorney and the attorney agrees to represent them, that attorney's lifeblood is on the line because he is not going to get paid if he doesn't do a good job in getting this fellow or lady a settlement.

Under the present system, what does the attorney care whether or not the employee gets compensation or not, he doesn't, he can't. In some cases, perhaps he does, I am not trying to cast aspersions on the entire legal profession, but let's face it, when you know that you are going to get paid for whatever you send in for a bill to the commission, there has got to be a little bit of excitement there to say, well, maybe I will call up another witness and we will get some more legal fees and we will drag it out for as long as we can. We all know that there are abuses to the system. Every single one of us who has done any checking knows that. It is a game that they play in some cases. You call up the right guy, you can get the right kind of answer, you don't, you don't. You get that kind of response from attorneys who have, off the record, represented cases in front of the commission. They get the person to the commission and they have a hearing, if it is delayed, so what? We have another three or four hours next month that I can get reimbursed for. The longer it is delayed, the better off it is for me. What incentive is it for the attorney to settle the case expeditiously if he knows that the longer he drags it out, the better chance he or she has for getting additional money.

If you really want to make a change, and again I would remind you, without hurting employees' benefits, you will vote against this amendment and we will have a clear bill that will make a difference, a real difference. So far, we haven't really wanted to accept that fact in this House yet. There are a number of cases in which once the employee is granted, those 80 percent that go in, they get granted compensation, then some of the sticky stuff starts. Perhaps the employee hurts his back while out playing frisbee or whatever the case might be, and that same employee who was 40 percent disabled, maybe now he is 60 percent. The employee goes to the attorney and the attorney says, what happened? Well, let's take the case back to the commission, without really knowing the facts. It increases litigation. It just should be a basic. Everyone here should understand that if they are going to be paid, it is a basic. They are going to increase litigation because it is money in the hip pocket of the attorney. You can't deny that. I can't for the life of me understand why the employees of this state seem to think that this is such a big deal. The only ones that should be excited about

this are the attorneys, who are guaranteed an income, so I hope that you will vote against this motion and perhaps just once, and I spoke earlier this session that I don't think I have ever asked for the indefinite postponement of a bill in this body because I have always tried to be positive, but in this one case, I think I will.

I ask for the indefinite postponement of House Amendment "A" to House Amendment "A" and I hope, I really do, you go along with that motion so we can get down to some serious business about making some real effective changes in our workers' compensation laws in this state.

Mr. Speaker, I would ask for the indefinite postponement of House Amendment "A" to House Amendment "A" and I would also request a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of 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 having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentlewoman from Vassalboro, Mrs. Mitchell, to the rostrum to act as Speaker pro tem.

Thereupon, Mrs. Mitchell assumed the Chair as Speaker pro tem, and Speaker Martin occupied his seat on the floor.

The SPEAKER pro tem: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Madam Speaker, Ladies and Gentlemen of the House: I sat through most of the debate today, or I should say stood, and had every intention of not speaking but this last bill brought me to my feet. It brought me to my feet for a number of reasons, because after listening to the debate, I became convinced that all of our employees in this state are crooks, that all of our lawyers in this state are people that we shouldn't trust, and the issue was never discussed. I am not a lover of lawyers as a profession because I think they have their problems, and if you ask citizens of this state what they think about the legislature, they will end up giving you the same conclusion. Individually, they like you and I; collectively, they have absolutely no use for us, and sometimes with good reason.

The issue before us is really quite simple to me, and to all of you it ought to be as well, and it is this — do you believe that the employees in this state ought to be totally unrepresented while the employer, through his workmen's compensation rates, have built into that system the rates so that the company lawyers can be paid? That is the problem. So what, in effect, you are willing to do if you accept the position of the gentlewoman from Auburn is to open up at the mercy of these highly paid and professional attorneys from one side.

Employees, who are not sophisticated for the most part, and who do not have the expertise to appear before the Workers' Compensation Commission, that, to me, is the most critical issue, and if there were a way to prevent the insurance companies from being represented by attorneys before the commission, I would have no problems. If you want to create a system where the commission decides exclusive of any attorney, then I would have no problem, but I have a real problem making the employees the sacrificial lambs.

Let's look at the issue. The question is, what will it save, that is what we are being told and here is the truth. The original proposal which was submitted as a result of legislation that occurred at the so-called Blaine House Conference said that the saving in rates would be somewhere around one percent if the original

bill went through. What we are doing now is saying that three quarters of one percent in savings will occur. Are you willing to sacrifice the difference so that the true cases will not be represented before the commission? I don't think you are.

There are unscrupulous employers, employees, insurance agents, insurance companies and name them, you've got them, but you don't sacrifice everyone for the sake of those few who tend to destroy or try to destroy every law that we have.

I will use one example to illustrate, it involves a major company of this state whose corporate headquarters is outside Maine. The corporate headquarters knew nothing of what was being done locally.

An employee was injured, no one disagreed that the injury occurred, and obviously shouldn't since the person lost two fingers, the person was treated. Three weeks went by without any salary, the remunerations or benefits being paid. There involved a number of flights from Presque Isle to Maine Medical in Portland, those were all being billed to the employee. This went on for six weeks and he had been told there was no problem.

The employee called me, and this is a recent case, it is not past history, and said, I don't know what to do because I keep calling the personnel manager and nothing happens. I said let me call the manager, and I did. The personnel manager said, oh yes, we'll take care of it. Two weeks later the employee called me again and said, I have received nothing and I have to go to town to get money so that my family can eat and I am going to have to apply for food stamps. I said, let me see what I can do. So I got emergency food stamps for the person and his two kids and wife. Then I called the personnel manager again, and he said, gee, I guess it fell through the cracks. I said, are you going to take care of it? He said, I will take care of it before five o'clock tonight. The next morning, nothing had happened, and at that point I called an attorney and I said, please represent this person so that he can start to get benefits.

If I had not had that capability to forewarn that worker, after six of seven weeks, where an injury no one disagreed had occurred, where an attempt was being made to get him medical attention, not being reimbursed, and Bar Harbor Airlines was about to kick him off the plane for future trips to Portland and the community paid for one of those trips in order to get him to Portland. I don't think any of that was necessary. It was an abuse of the system, it was an abuse by an employer at the mercy of one employee. Do you want to put all the employees in this state on the sacrificial altar? I don't think you really do, and I would plead with you not to remove all capability for redress when you have an employer who doesn't want to do the right thing. I would plead with you not to vote for indefinite postponement of this amendment. There may be something wrong with it, but it is not the intent that is wrong.

At this point, Speaker Martin resumed the Chair and Mrs. Mitchell returned to her seat on the floor of the House.

The SPEAKER: The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, Men and Women of the House: All small employers are not crooks either. I have a pen in my hand that says "Milk helps put you in a good mood." Well, I had a glass of milk this noon and I am not in a good mood, because I can foresee where hundreds of small jobbers like myself are going down the drain, and frankly, I am quite sick of it. It is about time that this legislature faced up to its responsibility to people in this situation, too.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Kingfield, Mr. Dexter, has hit upon a pretty good point.

I guess I take issue with the good Speaker's remarks and the implication that anyone here, at least from this corner, is trying to imply that employees in this state are crooks and that we have some careless disregard for attorneys and their practices. I don't think that is the case and I don't think that bringing up an isolated case of an individual who happened to be hurt by the system should somehow affect—there certainly are other examples that could be brought up that are perhaps better or worse than the one the Speaker previously brought up. The point is, in that case the employee had a legitimate case and his attorney will get paid anyway. That is the issue. If there is a fault within the system in how the case is handled, that isn't going to be changed by this bill. We are talking simply about whether or not the attorney is going to get paid whether or not he or she is successful in representing the employee, not on whether or not they fell into the cracks or whether or not they are forgotten or misplaced somewhere along the line.

The issue of one percent has been brought up. Yes, maybe it is a small percent, and maybe three-quarters of one percent is a small percentage, but I would remind you, that is what it costs for the employees' attorney, what about the employers' attorney who also gets paid. Everyone here seems to hate them, but they are also going to get paid every time that case is wound up. And every time the commission has to have a meeting, the employer's attorney is there, the employee's attorney, the commissioner, a court report, witnesses, doctors, all the back up information that goes with it, that all costs money in addition to that one percent.

We have already gone on record today as trying to speed up the process of how we resolve cases, and this amendment will not do that.

The implication was that the employees are going to be totally unrepresented. That is not the case at all. If the employee has been hurt on the job, they won't have any trouble finding an attorney who will represent them in front of the Workers' Compensation Commission, no problem at all. Anybody here who says they would be crazy.

When you go for further compensation and other things, after they have gotten their first assessment and now they are part of the system, there is all kinds of room for further abuse that this amendment does not address. They can ask for further compensation. They can say that instead of 40 percent they are now 60 percent disabled, they have to go through the whole thing.

We are not accusing anyone here, we are not asking anyone to be sacrificial lambs, we are not asking anyone to be unrepresented, we are simply telling people, if you have a legitimate case, you are going to be represented. If there is some question about that case, that costs money, and that employee should not be allowed to bring a frivolous case in front of the commission that costs money to the system. If it is a legitimate case, they will be represented, there is no question about it. Any implication or feeling that you might get to the contrary is not accurate.

I hope you will go along with the motion to indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I must be crazy, because I have an attorney who is a friend of mine and he told me that he no longer handles workers' comp because it is not worth his time or the money that it pays. If we pass this, it is going to be a heck of a lot worse.

I also hope that we do not vote to indefinitely postpone it. My personal feeling is to kill every-

thing, the whole bill, one end to the other.

There is nothing in this bill or the proposed amendment that says that the employer's attorney will not be paid if he comes up with a frivolous case. That is what I want, the employer or the insurance lawyer who is being paid through the workers' comp, he would also be considered. I hope that Mr. Higgins will come up with an amendment to take care of him also.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: That last point, I guess, deserves a little bit of rebuttal. There has been so much talk about that around the halls and that sort of thing, that it kind of bothers me. If someone sues me, I am going to hire an attorney. If the employee sues the employer or insurance company for additional compensation, they hire an attorney, it is as simple as that. I think to say that the employer had not had the right to defend himself against the case that is brought to them by an employee, that doesn't make any sense at all.

One thing I don't think has been mentioned here so far today — Maine is the only state in the nation and in the world, I think, but certainly in the nation, that allows this sort of thing to go on, the only one — think about it.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a correction. The employee is not suing the employer, he is asking for just compensation.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: I have been going through this hassle for five months; every day, the same thing. Now, I want the record to reflect that after five months of this, and today, with no relief in sight, I think it is time that we looked and reviewed the workmen's compensation laws.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that House Amendment "A" as amended by House Amendment "A" thereto be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I request leave of the House to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If he were here and voting, he would be voting nay and I would be voting yea.

ROLL CALL

YEA — Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Conary, Connors, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C. B.; Smith, C. W.; Stevenson, Stover, Strout, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brenerman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowlie, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C.; Hobbins, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland,

Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perkins, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Soule, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, The Speaker.

ABSENT — Carrier, Carter, Cunningham, Laverriere, Soulas.

PAIRED — Jalbert-Webster.

Yes, 67; No, 76; Absent, 5; Paired, 2; Vacant, 1.

The SPEAKER: Sixty-seven having voted in the affirmative and seventy-six in the negative, with five being absent and two paired, the motion does not prevail.

The pending question now before the House is on the adoption of House Amendment "A" as amended by House Amendment "A" thereto. A roll call has been ordered. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I request leave of the House to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If he were here and voting, he would be voting yea; I would be voting nay.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brenerman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowlie, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C.; Hobbins, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Soule, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, The Speaker.

NAY — Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Conary, Connors, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C. B.; Smith, C. W.; Stevenson, Stover, Strout, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Carrier, Carter, Cunningham, Laverriere, Soulas.

PAIRED — Jalbert-Webster.

Yes, 75; No, 68; Absent, 5; Paired, 2; Vacant, 1.

The SPEAKER: Seventy-five having voted in the affirmative and sixty-eight in the negative, with five being absent and two paired, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" as amended by House Amendment "A" thereto and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

Second Readers Tabled and Assigned

Bill "An Act to Maintain and Improve Marine Patrol Services" (H. P. 1589) (L. D. 1680)

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

On motion of Mr. Fowlie of Rockland, tabled

pending passage to be engrossed and tomorrow assigned.

Bill "An Act to Make Corrections and Clarifications in the Education Laws" (Emergency) (H. P. 220) (L. D. 298) (C. "A" H-509)

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

On motion of Mr. Connolly of Portland, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Engrossed

Bill "An Act Establishing a Voluntary Income Protection Program for Shellfish Harvesters" (H. P. 1450) (L. D. 1590) (C. "A" H-510)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

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

Non-Concurrent Matter

Bill "An Act Providing for Certain Public Utility Bond Financing by the Maine Municipal Bond Bank" (H. P. 1558) (L. D. 1668) which was passed to be engrossed as amended by House Amendment "A" (H-507) in the House on May 29, 1981.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-507) and Senate Amendment (S-316) in non-concurrence.

In the House: On motion of Mr. Orono, Mr. Davies, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Prptect Farmers Right to Farm" (H. P. 1175) L. D. 1399) which was passed to be engrossed as amended by committee amendment "A" (H-500) as amended by Senate Amendment "A" (H-500) in the House on May 28, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-500) as amended by Senate Amendment "A" (S-313) thereto in non-concurrence.

In the House: On motion of Mr. Carroll of Limerick, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

The Chair laid before the House the following matter:

An Act to Recodify and Amend the Maine Guarantee Authority Laws (H. P. 1563) (L. D. 1671) which was tabled and later today assigned pending passage to be enacted.

Pursuant to Joint Rule 4 and the Governor's Veto, the Chair rules this matter not properly before the body.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

An Act to Increase the Eating, Lodging and Recreational Place Licensing Fee (H. P. 63) (L. D. 97) (H. "A" H-65)

—In House, Passed to be Enacted on March 18.

—In Senate, Failed of Passage to be Enacted on March 20.

Tabled—March 25 by Representative Mitchell of Vassalboro.

Pending—Further Consideration.

Mrs. Mitchell of Vassalboro moved that the House adhere.

Whereupon, Mr. Higgins of Scarborough moved that the House recede and concur and requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All

those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of Mr. Higgins of Scarborough that the House Recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Austin, Bell, Bordeaux, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carter, Conary, Connors, Curtis, Damren, Davis, Day, Dillenback, Drinkwater, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Matthews, McGowan, McKean, McPherson, Michaud, Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Pearson, Perkins, Peterson, Pouliot, Racine, Randall, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.W.; Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Treadwell, Tuttle, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth.

NAY — Baker, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Carroll, Chonko, Clark, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Fowle, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; McColister, McHenry, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Paradis, P.; Perry, Post, Prescott, Reeves, P.; Richard, Rolde, Smith, C.B.; Soule, Theriault, Thompson, The Speaker.

ABSENT — Beaulieu, Berube, Carrier, Connolly, Cunningham, Dexter, Dudley, Jalbert, Laverriere, Martin, A.; Masterton, Soulas.

Yes, 79; No, 59; Absent, 12; Vacant, 1.

The SPEAKER: Seventy-nine having voted in the affirmative and fifty-nine in the negative, with twelve being absent, the motion does prevail.

The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, having voted on the prevailing side, I move we reconsider our action and hope you all vote against me.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Manning.

Mr. MANNING: Mr. Speaker and Members of the House: First, I would ask for a roll call.

This bill is going to increase the fee for licensing restaurants only \$5. When it originally came in, if I am not mistaken, it was \$30. We now know that if we don't get any more money into this particular dedicated fund, then the inspectors of this state, which will total only five, are going to be covering all the restaurants and eating and lodging establishments in the State of Maine, which totals about 8400.

I, myself, know that five inspectors are not going to be able to cover the entire 8400 places in one year, and if this body wants to go ahead and allow that, and allow an epidemic to break out in Boothbay Harbor, down around the Rockland area or down around the Blue Hill area, fine and dandy. This isn't a Portland bill. We have got two or three inspectors down there already doing it, and it is funny that a Portland boy would be sitting up there defining and trying to help out the rest of the restaurants in the whole state of Maine, but I am, because I feel if I am going down the coast or I am going up to Moosehead Lake, I should be able to go into a place and not have to fear that the restaurant hasn't been inspected for 18 months. That is what is going to happen. These restaurants will go anywhere from a year to 18 to 24 months without being inspected.

If you want to go ahead and vote for this, fine and dandy. I am just telling you, we are opening ourselves up to uninspected restaurants, to places that can be opened up and they will have initial inspections, but within a year and a half they probably won't be inspected again, and I think can cause a lot of problems in the next few years.

The SPEAKER: The Chair recognizes the gentleman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker, Ladies and Gentlemen of the House: I just have to make a reference to Boothbay Harbor that my friend Mr. Manning spoke of. In this little article that was on the front page of our local paper it says: "Boothbay Restauranters take with a dash of salt the dire warning of the State health officials that they will be unable to carry out their eating and lodging inspection programs without a hefty boost in fees." This is the front page.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McColister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: We should listen to what Representative Manning said. These fees are going to protect the food that we are going to eat.

I was very surprised a month or so ago when after having placed an amendment on this bill to reduce the number of employees in this department, and I believe we cut the fees by some \$100,000, that this body turned around and raised a half a million to regulate the insurance industry. They are just regulating our dollars, not our health. I think we should bear that in mind.

The SPEAKER: The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House reconsider its action whereby it voted to recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Prescott of Hampden requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I am going to ask you tonight to reconsider this motion so that we can pass a \$5 across-the-board fee increase for sanitarians in this state. We have five sanitarians to inspect 8700 eating and lodging establishments. Those include your own school cafeterias and your restaurants as well. We have five people to do that; two of them now are on sick leave, which leaves the state with only three sanitarians. This bill is desperately needed, and I hope you will reconsider so we can pass it.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I have before me a list of the prices of meals in a particular restaurant where we were trying to arrange a supper tonight—Prime Rib, \$10.95; Baked Stuffed Haddock, \$7.75; Condon Bleu, \$7.95. It would appear to me that the serving of one meal in these restaurants would more than pay for this increase in the fees.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Manning.

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: That is true what Representative Cox said, and the Restaurant Association of this state, which testified on this bill, were in favor of the \$30 increase, and they

are certainly in favor of the \$5 increase. They want to be inspected.

I know what the people are saying, they want less government out there, but the restaurants want to be inspected. They don't want to have anything happen so that there is going to be a catastrophe. Take July 4th weekend or the past Memorial Day weekend when they were saying there was a 15 percent increase over last year. What would happen three days beforehand if a disease such as hepatitis, which I had, ran rampant through the areas of Old Orchard and Ogunquit and those areas, or Moosehead Lake which had thousands of people up there during that time?

The restaurants want this bill, they want something. They want to be regulated. I know people are saying they don't want anymore regulation, but those are the people; the restaurant associations want it, so let's let them have it.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker, you say it is true that we have three sanitarians at this point. Are these sanitarians equally distributed throughout the state? My question is, does Aroostook County at this point have anybody checking restaurants and schools?

The SPEAKER: The gentleman from Presque Isle, Mr. Lisnik, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, I will attempt to answer the good gentleman's question. The three sanitarians that we have, we don't have five because two are sick, are statewide sanitarians. Some cities can inspect and do inspect themselves. I know the city of Bangor formerly was inspecting their own restaurants and establishments. However, they do not do that now because the city of Bangor cut that program. When they made that cut, that put the burden back on the state to do the inspections for the city of Bangor. I think there are only three other cities in the state that do their own inspections. Portland is one of them. So we definitely need the three sanitarians and more.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker and Members of the House: I made several calls in Presque Isle on this very bill. Their major concern was that they not be inspected more. Obviously, they are not going to be inspected more, they will be inspected the same amount or be inspected less, the chances are, and there was not great opposition to this \$5 increase.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Brodeur.

Mr. BRODEUR: Mr. Speaker and Members of the House: I would like to make two points; one is that prior to January 1980, there were ten sanitarians in the state, this bill would allow for the continuation of six of these. Without the bill, we will have five.

The second point is, in discussion of the sunset bill, it was debated that five inspectors for inspection stations for automobiles would not be enough and when that point was made in the House, we went along with that, so I would hope that we would reconsider. We don't have enough with the six people, as far as I am concerned. I would hope we would allow enough to have that.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House reconsider its action whereby it voted to recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley,

Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowle, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C.; Hobbins, Joyce, Kane, Kany, Kelleher, Ketover, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H. C.; Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perry, Post, Prescott, Reeves, P.; Richard, Rolde, Smith, C. B.; Soule, Theriault, Thompson, Twitchell, Vose, Wentworth, The Speaker.

NAY — Aloupis, Armstrong, Austin, Bell, Bordeaux, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carter, Canary, Conners, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Paul, Perkins, Peterson, Pouliot, Racine, Randall, Reeves, J.; Ridley, Roberts, Salisbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Treadwell, Tuttle, Walker, Webster, Weymouth.

ABSENT — Berube, Carrier, Cunningham, Dudley, Jalbert, Laverriere, Martin, A.; Masterton, Soulas.

Yes, 71; No, 70; Absent, 9; Vacant, 1.

The SPEAKER: Seventy-one having voted in the affirmative and seventy in the negative, with nine being absent, the motion does prevail.

The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mrs. Mitchell of Vassalboro requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Austin, Bell, Bordeaux, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carter, Canary, Conners, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Paul, Pearson, Perkins, Peterson, Racine, Randall, Roberts, Salisbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Treadwell, Tuttle, Walker, Webster, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowle, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C.; Hobbins, Joyce, Kane, Kany, Kelleher, Ketover, Killcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H. C.; Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.;

Perry, Post, Pouliot, Prescott, Reeves, J.; Reeves, P.; Richard, Ridley, Rolde, Smith, C. B.; Soule, Theriault, Thompson, Twitchell, Vose, The Speaker.

ABSENT — Berube, Carrier, Cunningham, Dudley, Jalbert, Laverriere, Martin, A.; Masterton, Soulas.

Yes, 69; No, 72; Absent, 9; Vacant, 1.

The SPEAKER: Sixty-nine having voted in the affirmative and seventy-two in the negative, with nine being absent, the motion does not prevail.

Thereupon, on motion of Mrs. Mitchell of Vassalboro, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mrs. Locke of Sebec,
Adjourned until nine o'clock tomorrow morning.