

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

LEGISLATIVE RECORD - HOUSE, APRIL 28, 1987

(C "A" S-37)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.
Sent down for concurrence.

Off Record Remarks

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act Concerning the Approval of Voting Devices
H.P. 71 L.D. 74
(C "A" H-65)

An Act for Timely Construction of Water Main Extensions

H.P. 218 L.D. 270

An Act Relating to Conferring Degrees by the University of New England in Biddeford

H.P. 466 L.D. 633

An Act to Amend the Requirements for Individual Public Self-insurers under the Workers' Compensation Act

S.P. 412 L.D. 1270

An Act Relating to a Vocational Region as Defined by Law

H.P. 957 L.D. 1286

Which were PASSED TO BE ENACTED and having been signed by the President, were presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

COMMITTEE REPORT - from the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Ensure Timely Adoption of Revised Solid Waste Rules" (Emergency)

H.P. 890 L.D. 1191

Tabled - April 27, 1987, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE of the Report

(In Senate, April 27, 1987, READ.)

(In House, April 24, 1987, PASSED TO BE ENGROSSED.)

Which Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

On motion by Senator BLACK of Cumberland, ADJOURNED until Tuesday, April 28, 1987, at 9:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
56th Legislative Day
Tuesday, April 28, 1987

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

Prayer by Reverend Norman A. Shaw, Millinocket Church of the Nazarene.

The Journal of Monday, April 27, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Permit Inventory and Testing of Underground Storage Tanks by Owner when Checked by the Department of Environmental Protection" (S.P. 282) (L.D. 792)

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Permit Certain Abandoned Residential Underground Oil Storage Tanks to be Drained and Filled with Sand or other Approved Materials" (S.P. 276) (L.D. 786)

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Expand the Number of Land Use Laws Under the Jurisdiction of the District Court" (S.P. 98) (L.D. 245)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide a Subsidy for Victims of Alzheimer's Disease with Funds Collected as Sales Tax on Construction of the State Subsidized Residential Care and Treatment Facility for These Victims" (S.P. 134) (L.D. 370)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Require Roll Bars on Police Vehicles" (S.P. 340) (L.D. 995)

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act to Identify Asbestos as Hazardous Waste" (S.P. 349) (L.D. 1041)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act Relating to Enforcement of Accessibility Standards for Places of Public Accommodations" (S.P. 109) (L.D. 282) reporting "Ought to Pass" in New Draft (S.P. 440) (L.D. 1349)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft given its first reading and assigned for second reading Wednesday, April 29, 1987.

COMMUNICATIONS

The following Communication: (S.P. 441)

113th MAINE LEGISLATURE

April 24, 1987

Senator Ronald E. Usher
 Representative Michael E. Michaud
 Chairpersons
 Joint Standing Committee on Energy and Natural Resources
 113th Legislature
 Augusta, Maine 04333
 Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Hervey M. Triplett of Bangor for appointment to the Board of Environmental Protection.

Pursuant to Title 38, M.R.S.A. Section 361, this nomination is currently pending before the Joint Standing Committee on Energy and Natural Resources.

Sincerely,
 S/Charles P. Pray
 President of the Senate
 S/John L. Martin
 Speaker of the House

Came from the Senate, Read and Referred to the Committee on Energy and Natural Resources.

Was Read and Referred to the Committee on Energy and Natural Resources in concurrence.

The following Communication:

DEPARTMENT OF LABOR
 Bureau of Labor Standards
 Industrial Safety Division
 State House Station 82
 Augusta, Maine 04333

April 23, 1987

The Honorable John L. Martin
 Speaker of the House of Representatives
 State House Station #2
 Augusta, ME 04333
 Dear Mr. Speaker:

In accordance with the provisions of title 26 MRSA, Section 1724 the following report is respectfully submitted to the 113th Legislature for its review and consideration.

This report contains information on the experience of the Bureau of Labor Standards under the Chemical Substance Identification Law.

Attached for your information is a copy of the regulations and a list of applicable chemicals. Please feel free to contact me if I can be of any further assistance.

Sincerely,
 S/James H. McGowan
 Director
 Bureau of Labor Standards

Was read and with accompanying papers ordered placed on file.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Agriculture

Bill "An Act to Create a Maine Dairy Stabilization Fund" (H.P. 1015) (L.D. 1368) (Presented by Representative McGOWAN of Canaan) (Cosponsors: Representatives TARDY of Palmyra, PARENT of Benton, and Senator MATTHEWS of Kennebec)

Ordered Printed.
 Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act to Develop a Client Support Services System for Individuals Infected with the Human Immune Deficiency Virus" (H.P. 1013) (L.D. 1366) (Presented by Representative RYDELL of Brunswick) (Cosponsors: Representatives LACROIX of Oakland, WEBSTER of Cape Elizabeth, and Senator GILL of Cumberland)

Ordered Printed.
 Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Require Safety Engineering and Loss Control in Workers' Compensation Insurance Rate-Making Proceedings" (H.P. 1011) (L.D. 1364) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Representatives RUHLIN of Brewer, RYDELL of Brunswick, and Senator DUTREMBLE of York)

Bill "An Act to Strengthen Rate-making Provisions for Workers' Compensation Insurance" (H.P. 1012) (L.D. 1365) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Senators CLARK of Cumberland, BUSTIN of Kennebec, and Representative RYDELL of Brunswick)

Ordered Printed.
 Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Create a Study of Growth Pressures in Maine Communities" (Emergency) (H.P. 1016) (L.D. 1369) (Presented by Representative MAYO of Thomaston) (Cosponsors: Representatives SOUCY of Kittery and MELENDY of Rockland)

Ordered Printed.
 Sent up for Concurrence.

Judiciary

Bill "An Act Relating to the Uniform Limited Partnership Act" (H.P. 1018) (L.D. 1371) (Presented by Representative MARSANO of Belfast) (Cosponsors: Representatives WARREN of Scarborough and CONLEY of Portland)

Ordered Printed.
 Sent up for Concurrence.

Legal Affairs

Bill "An Act to Limit Contributions which Candidates may Receive from Political Action Committees" (H.P. 1014) (L.D. 1367) (Presented by Representative HANDY of Lewiston) (Cosponsors: Representative CARROLL of Gray, Senators ESTES of York and MATTHEWS of Kennebec)

Ordered Printed.
 Sent up for Concurrence.

State and Local Government

Bill "An Act Allowing the Town of Island Falls to Annex Township 4, Range 3 WELS in Aroostook County" (H.P. 1017) (L.D. 1370) (Presented by Representative SMITH of Island Falls) (Cosponsors: Speaker MARTIN of Eagle Lake and President PRAY of Penobscot)

Ordered Printed.
 Sent up for Concurrence.

Taxation

Bill "An Act Relating to Taxation of Trucks" (H.P. 1010) (L.D. 1363) (Presented by Representative MAHANY of Easton) (Cosponsors: Senator THERIAULT of Aroostook, Representatives MacBRIDE of Presque Isle and LISNIK of Presque Isle) (Approved for

introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.
Sent up for Concurrence.

Reported Pursuant to the Private and Special Laws
LATER TODAY ASSIGNED

Representative MICHAUD from the Committee on Energy and Natural Resources, pursuant to Private and Special Law 1985, Chapter 137 ask leave to submit its findings and report that the accompanying Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$40,000,000 to Protect Ground Water Quality and Public Health Through the Cleanup and Closure of Municipal and Abandoned Solid Waste Landfills" (H.P. 1009) (L.D. 1356) be referred to the Joint Standing Committee on Energy and Natural Resources for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted.

On motion of Representative Michaud of East Millinocket, tabled pending reference and later today assigned.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative BOST from the Committee on Education on Bill "An Act to Amend the Education Laws to Expand the School Year to 185 Days" (H.P. 557) (L.D. 755) reporting "Ought Not to Pass"

Representative NADEAU from the Committee on Taxation on Bill "An Act to Remove the Sales Tax Exemption on Newspapers" (H.P. 338) (L.D. 437) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Providing Funds for Educational Programs Regarding the Harmful Effects of Tobacco Products" (H.P. 315) (L.D. 414) reporting "Ought Not to Pass"

Representative ROTONDI from the Committee on Fisheries and Wildlife on Bill "An Act to Provide for a Special Moose Hunting Lottery for Certain Senior Citizens" (H.P. 366) (L.D. 480) reporting "Ought Not to Pass"

Representative FARREN from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Weapons Carried by Trappers during Trapping Season" (H.P. 421) (L.D. 566) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative HICKEY from the Committee on Aging, Retirement and Veterans on Bill "An Act to Realign the Base-year Retirement Computation with the Cost of Living for Residual Members of the Maine State Retirement System Employed by the University of Maine System" (H.P. 865) (L.D. 1166) reporting "Leave to Withdraw"

Representative HICKEY from the Committee on Aging, Retirement and Veterans on RESOLVE, to Provide a Retirement Benefit to the Beneficiary of Harriet V. P. Kaplan (H.P. 837) (L.D. 1128) reporting "Leave to Withdraw"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife from the General Fund for Complimentary Licenses Authorized by the Legislature" (H.P. 742) (L.D. 1005) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Reimburse Municipalities for Revenues Lost Due to Existence of State Properties" (H.P. 789) (L.D. 1061) reporting "Leave to Withdraw"

Representative THISTLE from the Committee on Judiciary on Bill "An Act Concerning the Attachment of Real Property and Personal Property" (H.P. 403) (L.D. 537) reporting "Leave to Withdraw"

Representative WARREN from the Committee on Judiciary on Bill "An Act to Amend the Laws Pertaining to the Enforcement of Money Judgments" (H.P. 330) (L.D. 429) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Streamline the Debt Collection Procedure" (H.P. 335) (L.D. 434) reporting "Leave to Withdraw"

Representative MARSANO from the Committee on Judiciary on Bill "An Act to Enable Parents to be Emancipated from Parental or Guardian Responsibility" (H.P. 444) (L.D. 597) reporting "Leave to Withdraw"

Representative HANLEY from the Committee on Judiciary on Bill "An Act to Restore Status Offenses" (H.P. 628) (L.D. 851) reporting "Leave to Withdraw"

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

Refer to the Joint Select Committee on Corrections

Representative MANNING from the Committee on Human Resources on Bill "An Act to Permit the Use of State Agencies to House County Inmates in Emergency Situations" (H.P. 795) (L.D. 1067) reporting that it be referred to the Joint Select Committee on Corrections.

Report was read and accepted and the bill referred to the Joint Select Committee on Corrections and sent up for concurrence.

Refer to the Joint Select Committee on Corrections

Representative MANNING from the Committee on Human Resources on Bill "An Act to Institute a Literacy Educational Program in State Correctional Facilities" (H.P. 873) (L.D. 1174) reporting that it be referred to the Joint Select Committee on Corrections.

Report was read and accepted and the bill referred to the Joint Select Committee on Corrections and sent up for concurrence.

Refer to the Joint Select Committee on Corrections

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Promote Sex Offender Treatment for Persons Convicted of Sex Offenses" (H.P. 578) (L.D. 776) reporting that it be referred to the Joint Select Committee on Corrections.

Report was read and accepted and the bill referred to the Joint Select Committee on Corrections and sent up for concurrence.

Refer to the Joint Select Committee on Corrections

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Lengthen the Period of Probation for Persons Convicted of Sex Offenses" (H.P. 658) (L.D. 891) reporting that it be referred to the Joint Select Committee on Corrections.

Report was read and accepted and the bill referred to the Joint Select Committee on Corrections and sent up for concurrence.

Ought to Pass in New Draft

Representative DUFFY from the Committee on Fisheries and Wildlife on Bill "An Act to Amend the Open Season Fishing Laws" (H.P. 473) (L.D. 640) reporting "Ought to Pass" in New Draft (H.P. 1019) (L.D. 1372)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Wednesday, April 29, 1987.

Ought to Pass in New Draft/New Title

Representative WEYMOUTH from the Committee on Fisheries and Wildlife on Bill "An Act Relating to the Definition of Resident under the Inland Fisheries and Wildlife Laws" (H.P. 147) (L.D. 188) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Clarify Residency Requirements for Servicemen" (H.P. 1020) (L.D. 1373)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Wednesday, April 29, 1987.

Ought to Pass in New Draft/New Title

Representative DUFFY from the Committee on Fisheries and Wildlife on Bill "An Act to Establish a Small Game Hunting License and a Combination Hunting and Fishing License" (H.P. 38) (L.D. 41) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a Resident Small Game Hunting License" (H.P. 1021) (L.D. 1374)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Wednesday, April 29, 1987.

Divided Report

Majority Report of the Committee on Labor on Bill "An Act to Provide Unemployment Compensation During Employer Initiated Lockouts, Unfair Labor Practice Strikes and to Displaced Economic Strikers" (H.P. 483) (L.D. 650) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide Unemployment Compensation During Employer-initiated Lockouts" (H.P. 1008) (L.D. 1355)

Signed:

Senators: DUTREMBLE of York
ANDREWS of Cumberland
Representatives: JOSEPH of Waterville
MCHENRY of Madawaska
TAMMARO of Baileyville
RAND of Portland
HALE of Sanford
RUHLIN of Brewer
HEPBURN of Skowhegan

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

Signed:

Senator: COLLINS of Aroostook
Representatives: WILLEY of Hampden
ZIRNKILTON of Mount Desert
BEGLEY of Waldoboro

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry. Representative MCHENRY: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

Ladies and Gentlemen of the House: First of all, I would like to explain what this bill does not do. This bill does not allow people who participate in a strike and who vote for a strike, who are members of

a local that goes on strike, to collect unemployment insurance.

What this does is it allows the people who have no say in the strike -- you might have three bargaining units in one plant and one bargaining unit goes out on strike, and the other two bargaining units have accepted a contract or are in the process of negotiating a contract but did not vote for a strike -- they may be locked out if the company feels that they might put pressure upon the others. We feel that it is unfair to these employees that have to be out, not collecting striker's benefits and not to be able to collect unemployment insurance. This is the reason that the committee voted "Ought to Pass."

I will use my plant for an example -- we have half our plant in Canada and if the people in Canada were to go out on strike, it wouldn't be the fault of the people that work at Fraser's in Madawaska, but you are saying we shouldn't allow these employees that work in Madawaska to receive unemployment because the people in Canada went out on strike. We are all working for the same employer. What we are getting at is that these employees who are out, through no fault of their own, because of a lockout, should receive unemployment. They are willing to work, able to work, but cannot work because the employer said, "I have no work for you." Under the guise of a strike, they can claim that they do not have to pay these people unemployment. It is ridiculous but that is the way it is. When these same people work at the same plant, it is a little bit more complicated because people feel that they are the people out on strike but they are not out on strike. They never voted for a strike, they don't support a strike, so they should be able to collect unemployment insurance. That is the whole reason behind this bill.

The SPEAKER: The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: Representative McHenry's example is a little farfetched as far as I am concerned. I think it would be highly unlikely that, if some worker's go out on strike in Canada, that worker's here in the State of Maine would be locked out.

Let's look at the history of the Unemployment Fund and exactly what it is intended for. Unemployment benefits are intended for people who lose their jobs through no fault of their own. It is not intended to be a subsidy for the collective bargaining process, which is exactly what a lockout usually is a result of, a lack of ability of the employer and employee to come to an agreement in the collective bargaining process. Striking worker's, it is true, are not entitled to unemployment benefits during the time of the strike. This bill would not extend those benefits to them.

The example that Representative McHenry gave is an example where you have a company, and if you have four or five unions, and one of those unions go out on strike and the other three or four choose not to, this bill would allow those three or four unions to receive Unemployment Compensation Benefits. The problem you have on the part of the employer is that, if one of those units in the company go out on strike, more than likely that company is not going to be able to meet the output that they are expected to do. If you had the machine operators out, how is the company going to produce the product that they manufacture? How are they going to take care of the orders? What would happen is that the employer has a

choice — he can either continue to pay the members of the unions (the employees at the company that continue working) even though the company is not capable of manufacturing their product or he can lock them out in an effort to try and speed up the process to come to an agreement of some kind regarding the collective bargaining process. That is exactly what a lockout would end up doing.

To allow benefits for worker's who are locked out as a result of a labor dispute would be a clear violation of the intent of the law as far as I am concerned. No one would get benefits unless the loss of the job or the lockout was through no fault of their own.

Right now there is a delicate balance in the collective bargaining process -- employees have the right to strike at any time they choose and employers, under the existing law, would have the right to lockout if they choose to do so.

My basic concern with this bill is the upset of that balance and that is one of the reasons why, after careful thought, have chosen to oppose it. It is not a time to make this law any more lax than it presently is and give the employees total control over what would happen. Often times, they have some sort of union benefits if they choose to go out on strike and, if you take this tool away from the employers, they would also be collecting benefits if there was a lockout. I believe that that would put the employer, if you will, between a rock and a hard place. For that reason, I oppose this bill.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I think to have a clear understanding of this bill, perhaps we should have a clear understanding of the definition of a lockout.

A lockout is not a strike. A lockout may happen for any reason -- a company may choose to change its location, it may choose to say that "I am not going to negotiate," therefore, I am going to lock you out. A lockout is, in fact, most clearly defined when it is recognized as a unilateral, one-handed, ending of employment opportunities. In recognition of that, the unemployment laws of the State of Maine say that we shall compensate the employees who no longer have their employment opportunities. Therefore, I feel that it is only just when those opportunities are ended that they be extended to the situation that clearly defines a lockout.

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

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

Would somebody please explain to me exactly what a displaced economic striker is?

The SPEAKER: The Representative from South Portland, Representative Macomber, has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I will do my best to reply to the question from the Representative from South Portland.

A displaced striker is someone who is not capable of going to work (I don't have the bill right in front of me, so frankly, I am taking a shot at it.) I will look at it for further clarification, if the gentleman so requests.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Ladies and Gentlemen of the House: There are two points I would like to just bring out to you quickly to encourage you to vote against the pending motion.

Number one, a lockout, in my understanding, is the result of a labor dispute. I believe that part of the Statement of Fact in L.D. 1355 is misleading because it says, "employees who are unemployed, through no fault of their own." My question is to all of you is -- how can you have a labor dispute with no employee involvement?

The second part is to remind this body that the Unemployment Fund is paid entirely by the employer. This L.D. 1355 was originally L.D. 650 -- now some of you may have received phone calls from some of your small business employers who were quite upset about L.D. 650. This is basically the same bill.

If this bill, L.D. 1355 should pass and a lockout should occur here in Maine, your small business employers will be taxed more to help keep the Unemployment Fund in the black. So, I urge you strongly to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: This bill is exactly as Representative Ruhlin explained, a lockout is exactly a lockout. I, as an employee, would report to work, the doors would be locked -- I am willing and able to do the work but I cannot do it because my employer has locked the door. This places me in the unemployment classification.

What this bill says is, if an employer chooses to do this and elects to lock his employees out, I as an employee, am entitled to benefits under the Unemployment Insurance Act.

Realizing that this is totally paid by an employer, we must also realize the benefit of this to the employer. I will use myself as an example. Over 30 years ago, (and I hate to date myself as such) when I was unemployed for short periods of time, my employer preferred that I collect unemployment so that I would remain available to him for his work force when his work came in. He gladly paid that to assure himself, his company, of my expertise and the return of the investment he had in me as an employee and not have to train another person for my particular operation. That is what this bill does. If the employer opens the door, the expertise, the investment that he has in the employee, is still there.

I urge you to vote with the majority.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good gentleman from South Portland, Representative Macomber, -- a displaced economic striker -- that was the bill that came in and we wished not to address that point. That is why the good gentleman from South Portland has seen this statement. It is not in the bill, it has nothing to do with the bill. We are not trying to pay unemployment to people that are out on strike. We want to point out that those people that do vote for a strike will not get benefits. That is why we have a new draft.

We are saying we are willing to pay unemployment insurance to people that are willing and able to work and that is the criteria for unemployment insurance, you must be willing and able to work. A lockout is exactly what Representative Ruhlin has stated, it is a lockout, your employer doesn't want you to come in to work.

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: The only thing different with this bill is the last paragraph, everything else is the same in spite of the fact that everything is underlined, it is just the last paragraph that is pertinent to what we are talking about.

An economic striker is a striker that strikes for economic reasons, basically wages, fringe benefits, and that sort of thing.

I guess we have to go back just a couple of notches. In the first place, in the general balance of things in labor relations, the employee has the right to strike. That has never been challenged, it has been there forever. On the other side of the scales, the employer has the right to a lockout. One is intended to somewhat balance the other and when you unbalance the scales, obviously one has a considerable advantage over the other.

There hasn't been a lockout in the State of Maine -- I know there wasn't in 1986. I don't think there was in 1985, it is not a prevalent thing but sometimes you have to add one and one to make two and there is a bill before the Labor Committee presently to do away with contracting in these instances. One of the primary reasons there hasn't been a lockout in the past is because paper companies (for instance) have been able to contract for people to keep the process going while there is a strike of some of their unions. For that reason, it hasn't been necessary at all for there to be a lockout. That may change if the bill goes through to do away and to make it illegal to contract while there is a labor dispute going on. It does seem entirely unfair to unbalance these scales of justice in the labor relations field in favor of one person.

Right now the Unemployment Fund has a surplus of something like \$80 million, there is a lot of money there. But that is not always true. Just a few years ago, the fund was broke and we borrowed \$30 million from the federal government to keep the thing afloat. That can happen again very easily.

For instance, if Bath Iron Works should have a lockout, it would result in a payment out of the Fund of about \$1 million a week -- so you don't stay locked out too long.

It is not just the employer, who has the labor problems, that has to pay this. That Fund is made up of funds from every employer in the state's payroll tax and, if the fund goes broke, they all have to contribute to make it whole again. The rate ranges anywhere from 2 percent to 6 percent of the first \$7,000 of a payroll. So, it keeps the Fund very substantial in instances where there is a lot of employment but it can go broke very, very quickly in the instance of poor employment or a labor dispute. It seems to me that it is necessary to keep this balance which has worked fine.

I have mentioned that there hasn't been a lockout in a couple of years and there have been very, very few in the State of Maine. If we go this route, it seems to me we are opening the door to large expenses and subsidizing one part of a labor dispute. It is true, entirely true, that you can't have a dispute without more than one person participating in it. There has to be two sides, whether it is one or more parties. Somehow or another, in order to have a dispute, there has to be more than one side involved. For that reason, it is very difficult for me to understand how you can say -- "through no fault of their own." I just don't make any rationale out of that at all because if there is a dispute, no matter who is right and who is wrong, it is a dispute

and is the fault on somebody's part and, at this part, nobody knows on whose part.

I hope you will vote against the pending motion and I ask for a roll call.

The SPEAKER: A roll call is requested.

The Chair recognizes the Representative from Mount Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to briefly rebut the comments made by my good friend, Representative Ruhlin, when he gave you another farfetched hypothetical situation in which a plant may be closing and he questioned whether or not those employees would be locked out. My assertion in this particular case would be that, if a plant were closing and employees were given their walking papers, they would be entitled to benefits under the existing law because clearly they have lost their jobs through no fault of their own. This bill would not address that situation. What this bill would do is give the employees another leg up on the employers in the collective bargaining process.

I don't think anyone can doubt, based on the evidence that has been presented here today, that this would be a subsidy of the collective bargaining process and that employers do not initiate a lockout just for something to do. It is a result in the breakdown of the collective bargaining process and, if we extend benefits in this particular case, we are undermining the intent of the law, we are giving the employees too much on their side in which to war with the employers and it just would not be in the best interests of the situation. If we are to stick with the true intent of the law, we simply cannot pass this measure.

I hope you will oppose the motion.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Much has been said about this bill and it seems to me that it is not quite clear -- the only thing different about present law in this bill is Section E of the bill, which is on page 3 of your bill, which is L.D. 1355. It is important for you to realize that we are only talking about unemployment benefits for those people who wish to work, who are unable to work, whether they participate directly or indirectly and are affected by a labor dispute or, in fact, if they are locked out.

Now, this is just not a harebrained scheme designed by the Maine Legislature. This particular provision is a provision in 24 different states, including the State of New Hampshire. In fact, 95 people, who reside in the State of Maine in York County, who recently had been locked out because of the Simplex labor dispute, are presently collecting unemployment benefits from the State of New Hampshire. However, if this particular dispute took place in Eliot, Maine, those persons would not be collecting unemployment insurance.

I hope that you will vote in favor of this piece of legislation.

Another remark that was made is how providing Unemployment Compensation to worker's would, in fact, tax the Unemployment Fund. It is true that it would tax it somewhat. However, the only persons who would be taxed would be that employer because Unemployment Compensation is based on experienced rating.

Another point that I would like to make is, if in 1986, this bill were in existence, no money would have been paid by the state or by the employers because this, in fact, was not a fact.

I urge you to support this piece of legislation. It is a good piece of legislation and also is a fair piece of legislation for the worker's of this state.

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

Representative NICHOLSON: Mr. Speaker, Ladies and Gentlemen of the House: I pose a question to all of us — who is going to pay the employer? There is no Santa Claus, this is definitely a disagreement, among many disagreements, between employers and unions. I believe, as a member of this House, that what we are doing here is influencing future lockouts because employers will have to pay. Why should we guarantee payment to people that can be protected through a lockout? I don't buy it, we should vote against it.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: For nine years, I have been carrying this bill and working with this bill, having to do with an incident that happened in Millinocket back in 1978. I would like to refer to some of the instances that happened at that strike back in 1978 with Great Northern.

As you know in Millinocket, we have some 12 unions covering those two or three towns with Great Northern Paper Company. I was working for the trade unions who elected to go out on strike back in 1978. The UPI Unions, which is the largest local in those two towns, elected to work. Those unions who elected to work could not go to work. They were the largest union, they could not receive Unemployment Compensation and they could not receive any assistance from their union.

I came down here in 1978 acquiescing some assistance, did not get any because they said they were part of the collective bargaining unit, and could not get strike assistance, they could not get any unemployment and I think this is one reason why this bill is here today.

We hear a lot about upset of balance, negotiations, things about unions and employer but what is happening today with the collective bargaining process, you have to wonder who has the upper hand today. Look what is happening today with negotiations. Look what we fought for for fifty and sixty years and now we are losing them overnight in order to remain on our jobs in the work place today. I ask you, what is the balance today? Who has the upper hand today? That is why we have a Divided Report and that is why I hope, when you vote on the roll call, that you support the Majority Report, "Ought to Pass".

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

Representative RAND: Mr. Speaker, Men and Women of the House: I think that you should clearly realize there is a big difference between a strike and a lockout. When people vote to go out on strike, they keep their labors from their employer. They are not entitled to unemployment assistance because they have chosen to withhold their labors. This is an entirely different situation. We have people who are willing, able, and want to go to work. Their employer has closed the door and is trying to starve them into submission to sign a contract that would be to the employer's best benefit.

I urge you to please go with the "Ought to Pass" Report.

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: Just one more thing I would like to bring up. We have had no serious, really serious, labor problems I don't think, in the State of Maine, for many, many years. There have been very little instances of sabotage and this sort of thing. There have been in other states. I bring this up only because somebody else brought up the fact that other states do have this provision.

I was involved in one a number of years ago in Massachusetts where they paid such things. The first thing that happened is if you to on strike, you are not going to get unemployment benefits but, if you are locked out, you do. So, generally the labor people try to arrange a lockout so they receive these benefits. That is the logical thing to do and I don't blame them for doing it, it's the way they go about it that bothers me. Because in our instance there, they sabotaged the trucks — sugar in the fuel tanks, emery dust in the oil pans and all this sort of thing. We had a lockout for that very reason, to protect our own equipment, our own real estate, and I am very much afraid that that idea might creep into Maine, if we adopt something like this.

Again, I would urge you to vote against this piece of legislation.

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

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

The SPEAKER: The pending question before the House is the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Edgecomb, Representative Holloway.

Representative HOLLOWAY: Mr. Speaker, I wish to pair my vote with the Representative from Waterville, Representative Jacques. If he were present and voting, he would be voting yes; I would be voting no.

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

ROLL CALL NO. 29

YEA - Aliberti, Anthony, Armstrong, Baker, Bickford, Bost, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Connolly, Cote, Crowley, Diamond, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hepburn, Hickey, Hoglund, Holt, Hussey, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Racine, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tammaro, Telow, Thistle, Tracy, Vose, Walker, Warren, The Speaker.

NAY - Anderson, Bailey, Begley, Bott, Bragg, Callahan, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Hanley, Harper, Hichborn, Higgins, Ingraham, Jackson, Kimball, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Matthews, K.; Murphy, E.; Murphy, T.; Nicholson,

Norton, Paradis, E.; Parent, Pines, Reed, Rice, Salsbury, Scarpino, Seavey, Sherburne, Small, Stanley, Stevens, A.; Stevenson, Strout, B.; Taylor, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Allen, Boutilier, Dore, Hillock, Reeves, Sproul, Tardy.

PAIRED - Holloway, Jacques.

Yes, 87; No, 55; Absent, 7; Paired, 2; Excused, 0.

87 having voted in the affirmative and 55 in the negative with 7 absent and 2 paired, the Majority "Ought to Pass" Report was accepted, the New Draft given its first reading and assigned for second reading Wednesday, April 29, 1987.

CONSENT CALENDAR

First Day

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

(S.P. 317) (L.D. 919) Bill "An Act Relating to the Issuance of Bonds or Notes for Union Schools" Committee on Education reporting "Ought to Pass"

(S.P. 266) (L.D. 747) Bill "An Act to Revise the Law Prohibiting the Use of Drugs in Animals Competing in Pulling Events" (Emergency) Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S-37)

(H.P. 659) (L.D. 892) Bill "An Act to Allow Per Pupil Reimbursement to School Administrative Units for Home Instruction Pupils" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-76)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, April 29, 1987, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 402) (L.D. 536) Bill "An Act to Require Legislative Approval and Public Hearings for any Plan to Decentralize the Pineland Center Facility" (Emergency) (C. "A" H-74)

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

Bill "An Act Relating to Social Worker License Fees" (Emergency) (H.P. 1003) (L.D. 1350)

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

PASSED TO BE ENGROSSED

As Amended

RESOLVE, to Establish a Commission to Study the Feasibility of Constructing a 4-lane Highway from Interstate 95 to the St. John Valley (S.P. 167) (L.D. 471) (S. "A" S-38)

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

PASSED TO BE ENACTED

An Act Concerning the Calculation of the Insured Value Factor in Public Tuition Payments to Private Schools (H.P. 196) (L.D. 248) (S. "A" S-36 to C. "A" H-58)

An Act Concerning the Use of County Facilities (H.P. 224) (L.D. 292) (C. "A" H-68)

An Act Relating to Lobster Trap Vents (H.P. 322) (L.D. 421) (H. "A" H-70)

An Act to Recognize Foreign Adoption Decrees (H.P. 356) (L.D. 459)

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.

ENACTOR
TABLED AND ASSIGNED

An Act to Include the Tacoma Lakes in the Valuation of the Cobbossee Watershed District (H.P. 440) (L.D. 593) (C. "A" H-69)

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

On motion of Representative Carroll of Gray, tabled pending passage to be enacted and specially assigned for Wednesday, April 29, 1987.

ENACTOR
TABLED AND ASSIGNED

An Act to Amend the Interpreter Law for Coverage in Medical and Paramedical Areas (H.P. 961) (L.D. 1290)

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

On motion of Representative Carroll of Gray, tabled pending passage to be enacted and specially assigned for Wednesday, April 29, 1987.

ORDERS OF THE DAY
TABLED AND TODAY ASSIGNED

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

An Act to Make Additional Allocations for the Administrative Expenses of the Department of Finance, the Bureau of Alcoholic Beverages and the State Liquor Commission, for the Fiscal Year Ending June 30, 1987" (EMERGENCY) (S.P. 180) (L.D. 507) (C. "A" S-34)

TABLED - April 27, 1987 by Representative CARTER of Winslow.

PENDING - Passage to be Enacted.

On motion of Representative Carter of Winslow, retabled pending passage to be enacted and specially assigned for Wednesday, April 29, 1987.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$40,000,000 to Protect Ground Water Quality and Public Health Through the Cleanup and Closure of Municipal and Abandoned Solid Waste Landfills" (H.P. 1009) (L.D. 1356) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Carter of Winslow, was referred to the Committee on Appropriations and

Financial Affairs, ordered printed, and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative Macomber of South Portland,
Adjourned until Wednesday, April 29, 1987, at nine o'clock in the morning.

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Tuesday
April 28, 1987

Senate called to Order by the President.

Prayer by Reverend Donald Hinckley of the Unitarian Church in Houlton.

REVEREND HINCKLEY: O Lord, our charge is to answer the demand of our offices. For each of us, governors to the governed, must plot the best ways for all to cooperate in making human life better in our state. There are inequities still crying for correction. We are still dictated to by the traditions of the past, which must modify all of our decisions. There are great unexplored realms waiting, also, to take form. May our governors have great desire to bring before the governed the detail of that better life for all the people of our state.

We are aware, O Lord, of the different voices that speak to each, that side of reality peculiar to each of our own visions. Move us to be sensitive, patient and tolerant. May we understand why we think as we do, discerning the real reasons within our selves for our choices.

May the governed regard us with appropriate honor as they honor their state. May their eyes be open to the vision of the present and the future that is so carefully being pieced together in this arena. As they understand more, may their hearts swell in joy for the insight and concern that You, their servants, have so selflessly expended for all of them and for their future. Move them to express, O Lord, their gratitude to each of their representatives.

As we give thanks, as we must constantly for our freedoms, may our actions and words be a worthy reflection of our heritage and of the highest that we know. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Enhance the Productivity of the Workers' Compensation Commission"

H.P. 632 L.D. 855
(C "A" H-64)

In Senate, April 21, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-64), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-64) AS AMENDED BY HOUSE AMENDMENT "A" (H-75), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Permit the Use of Half Doors or Dutch Doors to Restrain Certain Patients in Skilled Nursing or Intermediate Care Facilities"

H.P. 1005 L.D. 1352

Comes from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.