

MAINE STATE LEGISLATURE

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

VOLUME III

FIRST CONFIRMATION SESSION

August 21, 1987
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SECOND REGULAR SESSION

January 6, 1988 to March 24, 1988

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
SECOND SPECIAL SESSION
 3rd Legislative Day
 Friday, November 20, 1987

The House was called to order by the Speaker.
 Prayer by Reverend Calvin O. Dame, All Souls Church, Augusta.
 The Journal of Thursday, November 19, 1987, was read and approved.
 Quorum call was held.

SENATE PAPERS

The following Joint Order: (S.P. 709)

Ordered, the House concurring, that the following specified matters be held over to the next regular session of the 113th Legislature:

COMMITTEE	BILL
Appropriations and Financial Affairs	(H.P. 1404) (L.D. 1904) - AN ACT Concerning Implementation of Weatherization Assistance to Maine's Elderly.

Came from the Senate, read and passed.
 Was read and passed in concurrence.

The following Joint Resolution: (S.P. 708)

JOINT RESOLUTION IN SUPPORT OF INCREASED SOVIET CONSIDERATION OF HUMAN RIGHTS

WHEREAS, hundreds of thousands of Jewish people seek the freedom to emigrate from the Soviet Union; and

WHEREAS, many more yearn for a reassuring affirmation that the new Soviet "Glasnost" will extend its openness to include greater cultural and religious freedom for its citizens; and

WHEREAS, we are encouraged by the direction taken by General Secretary Gorbachev, as demonstrated by the number of high-profile "refuseniks" who have been released, the increase in the monthly number of Jewish people who have left the Soviet Union, and the liberation of the last Jewish Prisoner of Conscience; now, therefore, be it

RESOLVED: That We, the Members of the House of Representatives and the Senate of the 113th Legislature, express our hope that the Soviet Union will meet the call for freedom and human rights. We offer our support to the citizens of Maine who will be in Washington, D.C., on December 6, 1987, to convey to the Soviet Union that its sincerity and commitment in all bilateral issues will be judged by and held accountable to its upholding of the Helsinki Human Rights Accord. We encourage the Soviet Union to express an obligation to allow unrestricted emigration for Jewish people in the Soviet Union; and be it further

RESOLVED: That suitable copies of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted to the Soviet embassy in Washington, D. C., with the intent that this message be forwarded to General Secretary Gorbachev and the appropriate Soviet authorities.

Came from the Senate, read and adopted.
 Was read and adopted in concurrence.

ORDERS

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Margaret Pruitt Clark of Brunswick be excused November 20 for legislative business.

Was read and passed.

PASSED TO BE ENACTED

Emergency Measure

An Act to Exempt the First Certificate of Need Continuing Care Retirement Community Demonstration Project from Certain Requirements (S.P. 699) (L.D. 1924)

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

PASSED TO BE ENACTED

An Act Related to the Numbers Pool in the Tri-State Lotto (S.P. 707) (L.D. 1931)

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide Staff for Improvement of Corporation Filing Services within the Bureau of Corporations (S.P. 675) (L.D. 1908) (C. "A" S-302)

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

Representative Foss of Yarmouth requested a roll call vote.

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

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

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

ROLL CALL NO. 181

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Baker, Begley, Bott, Boutillier, Carroll, Carter, Cashman, Clark, H.; Coles, Conley, Cote, Crowley, Curran, Daggett, Davis, Dellert, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foster, Garland, Greenlaw, Gurney, Gwadosky, Hale, Handy, Harper, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, Kimball, LaPointe, Look, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Norton, O'Gara, Oliver, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Racine, Rand, Rice, Richard, Ridley, Rotondi, Ruhlin, Rydell, Seavey, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, B.; Strout, D.; Swazey, Tammaro, Telow, Thistle, Tracy, Tupper, Vose, Walker, Wentworth, Willey, The Speaker.

NAY - Bailey, Bickford, Bragg, Callahan, Foss, Glidden, Gould, R. A.; Hepburn, Holloway, Jackson, Lawrence, Lord, MacBride, Nicholson, Nutting, Reed,

Salsbury, Scarpino, Sherburne, Small, Stanley, Stevens, A.; Taylor, Webster, M.; Weymouth, Whitcomb.

ABSENT - Bost, Brown, Chonko, Clark, M.; Dexter, Hanley, Higgins, Hillock, Ketover, Lacroix, Lebowitz, Lisnik, Paradis, J.; Reeves, Rolde, Stevenson, Tardy, Warren, Zirkilton.

Yes, 106; No, 26; Absent, 19; Paired, 0; Excused, 0.

106 having voted in the affirmative and 26 in the negative with 19 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Prevent Potential Pest Infestation (H.P. 1416) (L.D. 1921) (C. "A" H-430)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 2 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 Continue the Commission to Study the Integration of the Maine State Retirement System with the United States Social Security System (S.P. 701) (L.D. 1926) (H. "A" H-433)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Emergency Measure

RESOLVE, to Extend the Interim Reporting Deadline of the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute (S.P. 702) (L.D. 1927) (H. "A" H-434)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Improve the Maine Workers' Compensation System (S.P. 704) (L.D. 1929) (S. "B" S-307)

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

Representative Diamond of Bangor requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to say a few words this morning from my own conscience, I feel that I have to.

Ladies and gentlemen of the House, I feel that I have to say a little about the decision I made yesterday and which I plan to today on the Workers' Compensation Package. As you all must know by now, I am a papermaker and work at the Great Northern Paper Company in Millinocket, Maine. I have been employed there for 15 years. I know what the working man and woman is faced with every day. The decision I made at this time was not an easy one for me. I will go to work tomorrow and the next day and I will live with the decision and try to explain to my fellow workers exactly what has happened in the last couple of days.

I must tell you that I am not happy or even comfortable with the whole package worked out by the Labor Committee and Insurance Committee. I do feel that they have done the very best possible to continue to protect the Maine worker and also put Workers' Compensation back in line where it does belong.

I don't feel good about the rehab or the relocation part of the bill but we do have to look at the positive side of this and see that the worker will have a chance to come back and be productive again even if it is in another line of work.

I do believe that the Maine worker has lost a tremendous amount of credibility with everyone in the nation by saying that they abuse the system. This bothers me tremendously and I don't find that to be the case at all. Maine workers are hard workers and faithful workers and will prove this over and over again.

What has happened in the last few years -- which is a terrible shame -- is that everyone happens to see someone or knows of someone who is on compensation but really believes he or she should not be because of what this person on compensation is able to do at home.

Workplace safety, let me talk a minute about that situation. I work in an environment where a paper machine has numerous opportunities where one can get severely hurt and even killed in the blink of an eye. I have seen it happen. In the moment of a split second or less, they grab or run for something and that is the end of them or part of their body or their life. I was brought up by my dad who constantly preached safety. It was always foremost on his mind, it is always on my mind, every day. The people I work with are told by me -- "This is only a paper machine, it has no feelings, I want you to go home to your family perfectly healthy. So, if you do not understand what is going on, do absolutely nothing, even if the machine goes behind on paper or production."

The Great Northern Paper Company realizes that it has many hazards and, in the past ten years, have tried to correct these deficiencies and to make the

workplace safer and to inform the men of these conditions. This is done by monthly safety meetings and constant prodding by the foremen and the people on jobs who do receive green members (green members, for people who don't understand what a green member is, it is a new crew member, somebody new coming on to the job.) It does take time to correct certain conditions because of lack of parts, lack of manpower and time but they are trying to do this. With this bill being passed, I do believe that more companies will follow suit and try for the same results which will cut the numbers of injured workers.

No matter what, I realize that people still will get hurt by their own human error and by things which happen with machinery and which we have no control over.

I want you all to know that I understand what can happen when someone in your family is hurt or injured. In 1959, my grandfather, who at that time worked for the railroad, was in a very serious accident on the motor car which he was operating. It went off the tracks. He broke his neck, both arms in numerous places, one leg, and split his skull from one end to the other. The B&A Railroad wanted very much to settle with him and he said, no, he wanted to go back to work. After spending more than a year in the hospital, 3 months of which he was on the critical list, he began his rehab program. Two years after his accident, he went back to work and continued for 15 years until his retirement.

My dad was a painter for the Great Northern Paper Company. On one job, using a paint that was not labeled correctly, ended up with lead poisoning. My dad weighs over 200 pounds and is a very strong man but that caused him to be in bed for over 10 months because he could not stand up for the dizziness that would come over him. Again, he was asked to settle and he said, no. He worked himself back to his regular job and continued for eight more years until his retirement last year.

The point I am trying to make is that the Maine worker does want to work and that he does want to be rehabilitated and he does want to be productive to society and his fellow mankind.

The part of Workers' Compensation that we have dealt with these past few weeks is the smallest part of accidents that do happen but have been paid for the most. I feel comfortable in the way in which the Labor Committee has dealt with this problem, given the short amount of time that they had.

My final comments today are reserved for the insurance companies. I have always hated them for the way they play upon the emotions of people. They make you feel as if you are the most heartless person in the world. They make you feel like you are the lowest creeping crawling thing on earth. Certainly every reasonable person knows that we have to have protection for all the things that befall us in life. It is the inhumane way in which the insurance company sells their programs to us that bothers me.

At this time, I cannot take the chance that many Maine workers will be left without Workers' Compensation. It is the same as if I bought a new house, knowing that I need fire insurance but do not get it for two weeks and, in one week, my house burns down. It is the same with the Workers' Compensation Insurance. We, the working people of this state, cannot be without it.

It is to my people across the aisle that I would like to say that it is the Democrats that have made the biggest difference in this matter, we are the majority, and we were willing to work together. I hope and pray that what we have done here this day will not be forgotten by them and that we have truly

tried to benefit the majority of the people in this great state.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I especially want to thank the Speaker and members of the House for being indulgent with me yesterday. I appreciate the respect that was granted to me for carrying on quite a while yesterday. I usually am brief, to the point, and sit down. Somebody said, "Who set fire under your seat?" I said, "I have a feeling like I'm seeing my child drowning and I can't do anything about it, that is the feeling I have." I feel that I don't have the mental capacity such as the good Representative from Eastport who is a very good, hard working legislator who always finds a way to get what he wants. I wish I had the mental capacity that that person has but I do not. That is why I feel so helpless and that is why I get angry. I get angry, not at you people, I respect each and ever one of you. I get angry at myself because I feel I could be doing more than I am doing. I want to do what is right for the people but we all do what we feel is right for each and every one of us. We represent our people to the best of our ability. I respect and love each one of you whether you believe me or not. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I do not intend to add to the debate substantially but do feel a great need to express my very mixed feelings on this bill, perhaps more than on any other bill in recent history. I have agonized over this issue for weeks and I continued to do so as I lay awake most of last night. My only comfort comes in knowing that I am not alone in my feelings but I am joined by many others here today.

I don't mean to be critical of the committees because I am aware of the many positive changes that will be implemented with this bill but what this bill does to the workers of Maine is more than I am able to accept.

The thing that come back to me again and again is the fact that this bill will not help employers, their rates are going to rise despite this bill. This bill certainly will not help employees, they suffer greatly under this legislation. No, instead this bill is going to help insurance companies doing business in Maine. This bill, and everyone acknowledges it, is aimed at keeping insurance companies in Maine, even though no one really knows if they actually would have left in the first place. That is what comes back to me again and again.

We are helping the wealthy insurance companies on the backs of Maine workers and on Maine's business owners. Many workers may fall through the gaps by this legislation. There are no guarantees in this bill that a retrained worker will find a good job or any job at all. How many workers will be retrained, only to get a job that pays only a fraction of what they were making before their injury? How many workers will be retrained and be forced to move to another part of the state or suffer eventual benefit cutoffs? How many workers who are injured through no fault of their own will be retrained and never find a job?

Ladies and gentlemen, I ask you, what good is training if you ultimately can't find a job and are left with little means of support besides the welfare system? That certainly will not raise the esteem or the living conditions of anyone.

The agony of this bill, however, is that if we don't support the bill, will the situation only become worse for our workers? How many employees will be adversely affected by employers who will be forced to close their doors because of lack of insurance coverage and because they would, for good reason, not be willing to risk everything they own should they be sued? Ultimately, if insurance companies do leave the state, employers and employees will be left to fight out their battles in court.

There are many small employers in my area and, I am sure there are many in yours, who could not bear the financial burden of court battles. No matter how safe you are, accidents are going to happen and costly court suits will arise. Needless to say, workers would only be hurt more by this because many might be too intimidated to take their case to court. There would be others who would take their case to court and lose out completely. We can't do that to our workers and our employers, can we? So I am left with a very, very uncomfortable feeling, a very empty feeling about this bill especially because I have two brothers, right now, who are out of work at the International Paper Company. One of them is waiting right now to hear the results of how he will do on his Workers' Compensation claim which resulted from an injury last May. The other brother is out on strike. For those reasons, it is doubly difficult for me to vote on this today, to bow to the pressures of big business at the expense of small business people and employees. I feel like I am selling Maine's employers and employees down the river if I vote yes, and yet I am sending them down the river if I don't. I don't like this feeling, ladies and gentlemen, and I only wish that this same uncomfortable feeling were shared by enough of you so that we could send this process back to the committee for more compromise but I know that is unrealistic.

After much agonizing, I have come to the realization that my vote will not make a difference in the outcome. Employers will still be getting the coverage that they absolutely need. I believe a statement has to be made in behalf of the workers who made our state what it is today. I have decided to stand by my previous "no" vote and I want you to know that it is being cast on behalf of many of you who I know are voting "yes" even though you have reservations and doubts about the bill.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: The previous three speakers, I think, spoke very eloquently about their positions on this bill. I think the one thing that stood out from all three was that they were speaking from the heart. I respect that, I think that every member of this body respects that fact. Too often legislators are accused of being heartless. Government is accused of being heartless and it is great to hear people speaking from the heart and letting the rest of us know and letting the public know that they are compassionate, that we are compassionate, and that we care about what goes on with our fellow citizens of this state and we care about the welfare of our fellow citizens of this state.

When we first came in on this issue three and a half weeks ago, we heard a lot of talk from the heart. We heard about the problems that were being faced by employers, problems being faced by employees, problems being faced by the insurance companies of Maine. We said we had to do something about it. But, there was a great discrepancy over the means by which we accomplished those goals.

The original proposal given to us was rejected. Many people here, including myself, condemned it; others praised it. There was a great split between this body and in the other body as well. It was something that we knew would be a divisive issue. We spoke from our hearts at that time and we had to recognize at that time that, in order to deal with the situation, we would have to back up a little bit, give us a little additional time in which to work and to put things in its proper perspective. Well, over the last three and a half weeks, we have done that. Every day, practically, the two committees involved, the Labor Committee and the Banking and Insurance Committee met and worked over this bill. They looked at every aspect of the problem before us and they looked at it from the three perspectives that were prevalent in the state house and prevalent with this issue. They looked at the workers and what their needs and concerns were. They looked at the employers and what their needs and concerns were and they looked at the insurance companies to find out what their needs, concerns, and demands were.

Some say we are being asked to deal with a situation with a gun pointed to our head. I think when we first came in here, that indeed was the case, but fortunately, because we put things in perspective and because we gave ourselves a sufficient amount of time in which to work, we now have a bigger and better view of the overall picture.

I share a lot of the concerns that were just expressed in the last few minutes. I believe that the working people of Maine deserve our protection. I believe that they have to be our highest priority but I also believe that the two committees involved in this issue have put them first, have looked at the overall issue, have looked at their concerns and realize that they have put together a package that accomplishes what we share together and share for those people.

If you look at the workers' perspective, there are three things that stand out. The new proposal that is before us is a fair proposal. That proposal is a just proposal and, yes, this proposal is a compassionate proposal. Certainly there was some give from the previous or existing system and the workers recognize that. Overall, I think the benefits that were added to this package by the committee and by the participants far outweigh that. In the long run, I think the workers are better off now than they are under the existing system.

If you look at it from a business perspective, there is no question that we had a very unstable situation in this state and something had to be done to stabilize it. I think the work of the two committees have done that. If this legislation is given the chance, it will stabilize the market, will allow employers to have workers' comp coverage available that is both available and affordable.

The third party involved, the much maligned insurance industry, they get something out of this too. I am not crazy about insurance companies, I share the views of Representative Hussey to a certain extent. I do believe we have given them adequate incentives to stay in the State of Maine and adequate profits through this proposal. If they decide that, in spite of what we do, they don't want to stay and do business in Maine, well, they are going to have to find somebody else to blame besides the Maine Legislature.

Clearly, nobody is happy with what we put together here. You can't be happy about a situation like this any time compromise has to be forged. I think we have to realize that we have to be satisfied with what we have put together. We have to be

confident and comfortable with the fact that what has been fabricated by the two committees and what is now before us is something that is, indeed, going to accomplish this long sought-after goal. For the people of the State of Maine, for the workers, for the employers and for the insurance companies, there is nothing more than a sense of relief here. Nobody should be jumping for joy at what we are passing; yet I think for the workers, they should be relieved that the benefit cuts that are included in this legislation aren't nearly as dramatic as those proposed three and a half weeks ago. For the employers of this state, they understand that they will have stabilized rates available for them. They don't have to worry about that, if this passes. The insurance companies — they certainly aren't going to be as happy as they would have been had we passed that bill that came down to us in mid-October, but nonetheless, they can be satisfied.

All we have to do today, folks, is to give this bill a chance. For years now, at least since I was first elected into the Legislature, workers' compensation has been a major issue before us. We have tried and tried and tried to resolve it. I think what has been fabricated by both Democrats and the Republicans in the legislature is going to do what we want it to do. If we give it a chance, we put it in place, we will find out. If it doesn't work, we will come back and we will change it but all we have to do is give it a chance.

I ask that you join together in a bipartisan fashion today and enact this legislation and let's see what it can do.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: This morning I will be voting in favor of the package that is presented. I don't do so with a great deal of comfort or even a sense that it will solve all the workers' compensation issues. My constituents have been calling for the last two weeks and I have been telling them that a good compromise makes no one happy, but it also leaves no one feeling sold down the river. My words have come back to haunt me. I didn't realize how difficult, how agonizing this decision was going to be for me.

I do feel that together these bills can provide a framework for a stronger system. The financial incentives for workplace safety, rehabilitation, education and reemployment are the basis for keeping workers safe and, when accidents do happen (and they will) doing the best we can to get people back to work. In exchange for those provisions, some benefits schedules are changed. I can only hope and pray that those compromises are equal.

I have listened, talked, and discussed with members of this body. I have listened to debate in both this House and in the other. I have been assured by the committees that they will be carefully overseeing the implementation of these proposals to determine how it is working and if it is working so that we are not back here at this level of crisis management again.

I am not voting for this because I feel sympathetic to the cries of poverty of the insurance industry but I see this as the only vehicle to allow the businesses in my district and in this state to have coverage for their workers. I see it as the only vehicle to improve workplace safety, to improve rehab and education.

Rates will go up. But because of the hard work of the committees, the rates will not go up as much

as they might have in the original bill. Small businesses in my district are still going to have to deal with high costs, actually higher costs.

I am also concerned with the additional potential cost to welfare, both state and local. Folks that may be cut off from benefits will naturally go to these sources of assistance. If this happens, we will all be guilty of subsidizing the insurance industry with local property tax money and handing the final blow to the self-esteem of injured workers.

I see today as a beginning. I hope that in the session that will begin in January and in the future, we can take the time necessary to address these issues further and look at real long-term solutions instead of a crisis response.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: Far be it for me to present a note of acrimony into this wonderful bipartisan fellowship that we have going here. In my opinion, when this bill first appeared, it was a wild turkey. It went down to committee, it got primped, it got pampered, it got massaged and manicured and has appeared in front of this body as a domesticated turkey, but it is a turkey nonetheless.

You know there is a statement that goes something like, "He who fails to learn from history is doomed to repeat it." Now, in the near past, we underwent a crisis in workers' comp. I listened to all the same good fellowship, bipartisan bonhomie in passing that piece of legislation that was going to improve service delivery to the employees, it was going to lower costs to the employers and was going to correct the system. It slowed delivery to the employee, increased costs to the employers and brought us to another crisis.

I am listening to the same arguments today on the same kind of modification of the system. To me, our workers' comp system is like a huge, outmoded, obsolescent, old machine that has been modified, repaired, jury-rigged and changed to try to keep it productive and functional. It has been done so many times that now the machine in effect is held together with string, chewing gum, and bailing wire. Every time somebody tries to fix one part of that machine, the added stress it puts on the others causes a breakdown someplace else. Our workers' comp system is just like that machine. We have just fixed "one part of it." Mark my words, in two years, it is going to break down someplace else and we are going to be right back here. The only way to fix our workers' comp system is to scrap what we have got and start over. It is so involved, it is so complex that it is impossible, in five weeks or five years, to come up with a system that works out of the hodgepodge that we have.

I ask you people only to remember one thing, that in two or three years when we are facing this again and we will face this again — because if you look at what this bill does, while it promises many things, it is going to increase employers costs, it is going to reduce services and delivery times to employers and it is going to lead us to another crisis. In passing this we are resolving an immediate crisis and planting the seeds of the next. When the next comes to fruition, leave us not play this band-aid game. Let's throw this out and start all over again. I hope to be here in two years to say this again and remind everybody.

I am voting for this bill, not because I think it is going to work, I am voting for it because I see

two choices that I have. I can either vote against it in an attempt to create an immediate crisis or I can vote for it and create a future crisis. My hope is that this body has both enough sense and enough courage in the future to do what is necessary to prevent that coming crisis. That is the only reason that I am going to vote for this piece of legislation because, if I can put the crisis off for two years, it gives us a little breathing time. What we do with it is up to us.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I believe that before we vote today, we ought to think carefully about our workers' compensation system and about what we ask that system to do and to remember that for many Maine people who are workers, who are employees, this is the only universal system that we have to provide medical care, disability benefits, wage-loss benefits. We don't have in place in this state or in this nation another universal system.

I believe our workers' compensation system has been in crisis before and is in crisis now because we are asking so much of it. I believe it is time that we begin to consider what is essential to be in a workers' compensation system and what should be included in other health and social systems and perhaps we should begin to consider how we would put them into place. I believe that if we don't, we will be back here trying to deal with a system that has so much on its back that it cannot bear the burden.

I also believe that there are things that needed to be corrected in our present system and, while I am not happy nor pleased with all aspects of the law that we are (I hope) about to pass, I do believe that it will lead us in a direction that we must go and that is that we must protect our Maine workers from getting injured in the Maine workplace. It appears that the only way that we can do that is to heap penalties on employers who do not provide safe workplaces.

The men and women of Maine, who are our workers, spend many, many hours each week in their workplace. Many of them are doing repetitive, monotonous work, some of them are doing other kinds of work that is perhaps more varied. We all know that accidents happen, they happen in our homes and they will happen in the workplace. We also know that many of those accidents can be prevented. They can be prevented by a little forethought and they can also be prevented by expenditure of time and money.

When the Banking and Insurance Committee began its work, we very quickly agreed that any recommendations to reform the workers' compensation insurance system must include provisions to address the issue of safety in the Maine workplace, that we wanted to harshly penalize Maine employers who did not have safe workplaces, who did not use all of the best that is available in modern technology that could provide safety for Maine workers. We know that that is not happening today. We know there are employers who are making an effort. We know there are employers who could make more effort and employers who have yet to begin to make a fair effort.

I believe that there are elements in our package today that will help to protect these Maine workers, that will reduce injuries in the Maine workplace. If I didn't believe that, I could not cast my vote for this package. I also know that we must never again find ourselves in the situation of being held hostage by insurance companies or any other business in the State of Maine. We must be vigilant on the system that we are putting into place today. We all want it

to work but we don't know whether it will. We must watch this revised Maine workers' compensation system from every angle. We must monitor its effects on Maine workers and Maine employers. We must not be afraid to come back here the very moment we know that it is having an adverse effect on these groups of Maine people. We are part of that -- most of us here today are either an employer or an employee.

If we discover that what we have done is unduly harmful to the groups of Maine citizens we are trying to protect, then we as a legislature must reopen the issue. At the same time, I feel that we are not finished when we leave here today. We must go home and explain to the employers and employees who are our constituents what we have done and why we have done it. Then we must ask them to help us monitor this system. We must ask them to come to us with facts and information about how this system is impacting upon them and we must listen to them.

There is yet another thing we must do and that is we must begin to prepare, not in two years, not when we feel there might be a crisis, but prepare immediately to prevent any further crisis. We must research alternatives to our present system. We must research self-insurance. I believe we must also research a state fund, not that we should present any alternatives immediately, but that we should know what are our alternatives, how they could be implemented in the State of Maine and how they are being implemented in other states and then we should try to use all the computer models and other pieces of research that are available to us today to try to come forward with an alternative. Then we would be ready with an alternative that might work better than our present workers' compensation system today. So, we are not through when we leave here today. In fact, we are just beginning. We will have made some very major changes and we do not yet know what the effects will be. We can only hope and we can only guess what some of the effects will be.

I ask all of you, as you cast your vote today, and as you go home, to make a pledge to work with us to continue to protect Maine workers and to continue to look out for Maine businesses but to also make a pledge to work on changing, improving, reforming, or renewing the system that we put in place today whenever it becomes necessary to do so.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The tone is somber, the tone is serious and no one is happy. Compromise is not easy. I understand and until the eleventh hour I, too, agonized and I deliberated whether or not to sign the "Ought to Pass" Report of this bill. After spending eight or ten hours a day since October 21st, every day but two Sundays, and after weighing all the pros and cons as to the overall effect to the working people of this state, the Human Rights Provision, the safety provisions, the retraining and rehiring, after listening to some of your misinterpretations and perceptions of the Labor Committee's action, I determined that it is more valuable for me to preserve what is good about this bill. It is more valuable for all of us to vote for this bill. It is more valuable to the working men and women of Maine and of Waterville and of central Maine than for me to change my vote today and to vote against this bill -- a position that has been difficult for me to take.

We all agree that there will be more work to be done by the Labor Committee, by the Banking and Insurance Committee and by the full legislature, but what we are doing is very important today. It is another step in the right direction. As a person who

sponsored Governor Brennan's reform legislation, who cosponsored reform in 1983, this is just one more baby step in that right direction.

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

Representative McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I know that the numbers are there, we are going to pass this bill. I still will not vote for it. There is one issue in there I am interested in but the bad outweighs the good.

I do take some comfort in the knowledge the way this bill was drafted. In my opinion, we had the best, the brightest, the most honest and sincere legal minds on labor issues in Gil Brewer as our legislative assistant (not saying that other legislative assistants aren't as good) but Gil knows the labor issues and ramifications of anything that we do. You can ask him anything and he will tell you exactly what we are doing, that is the biggest asset that we have. Were I an owner of a legal firm, I assure you I would snatch this young man from the state right off.

I have been told I am a little bit crazy, its true — in being crazy, it keeps me from going insane. I truly believe that no matter what happens, some good is going to come out of this in the future. I believe that. I have to believe that, otherwise I am going to have ulcers.

The SPEAKER: The pending question before the House is passage to be enacted.

The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, pursuant to Joint Rule 10 and House Rule 19, I respectfully request permission to be excused.

The SPEAKER: The Chair will excuse Representative Carter of Winslow from voting pursuant to House Rule 10 and Joint Rule 19.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of the members present and voting are necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 182

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Callahan, Carroll, Cashman, Coles, Cote, Crowley, Curran, Daggett, Davis, Dellert, Dexter, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Greenlaw, Gwadosky, Hale, Harper, Hepburn, Hichborn, Hickey, Higgins, Holloway, Hussey, Jackson, Jacques, Jalbert, Joseph, Kilkelly, Kimball, LaPointe, Lawrence, Lisnik, Look, Lord, MacBride, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McPherson, McSweeney, Mills, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Racine, Reed, Rice, Richard, Ridley, Rotondi, Ruhlin, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevens, P.; Strout, B.; Strout, D.; Tammaro, Tardy, Taylor, Telow, Thistle, Tupper, Vose, Walker, Webster, M.; Wentworth, Whitcomb, Willey, The Speaker.

NAY - Baker, Brown, Chonko, Clark, H.; Conley, Gurney, Handy, Hoglund, Holt, Mahany, McHenry, Melendy, Michaud, Mitchell, Oliver, Priest, Rand, Swazy, Tracy.

ABSENT - Clark, M.; Hanley, Hillock, Ketover, Lacroix, Lebowitz, Paradis, J.; Reeves, Rolde, Stevenson, Warren, Weymouth, Zirnkilton.

EXCUSED - Carter.

Yes, 118; No, 19; Absent, 13; Paired, 0; Excused, 1.

118 having voted in the affirmative and 19 in the negative with 13 being absent and one excused, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

Representative Mayo of Thomaston was granted unanimous consent to address the House.

Representative MAYO: Mr. Speaker, Men and Women of the House: Reference to Roll Call 180, I evidently did not hit my button securely, I intended to be recorded as yea.

(Off Record Remarks)

(At Ease to the Gong)

The House was called to order by the Speaker.

ORDERS OF THE DAY

BILL HELD

Bill "An Act to Reform the Process by which Insurance Rates are Established under the Maine Workers' Compensation Act" (Emergency) (S.P. 700) (L.D. 1925)

- In Senate, Passed to be Engrossed on November 19, 1987.

- In House, Passed to be Engrossed in concurrence.

HELD at the request of Speaker MARTIN of Eagle Lake.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 1925 was passed to be engrossed in concurrence.

On motion of the same Representative, L.D. 1925 was indefinitely postponed in non-concurrence and sent up for concurrence.

Bill "An Act to Reform the Maine Workers' Compensation Act to Assure Coverage for Maine Workers" (Emergency) (S.P. 703) (L.D. 1928)

- In Senate, Passed to be Engrossed on November 19, 1987.

- In House, Passed to be Engrossed in concurrence.

HELD at the request of Speaker MARTIN of Eagle Lake.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 1928 was passed to be engrossed in concurrence.

On motion of the same Representative, L.D. 1928 was indefinitely postponed in non-concurrence and sent up for concurrence.

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

ORDERS

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Harriet A. Ketover of Portland be excused November 19 and 20 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Judy Paradis of Frenchville be excused November 20 for legislative business.

Was read and passed.

Representative Richard of Madison was granted unanimous consent to address the House:

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to have each of my colleagues here in the House give recognition at this time to one of our own, Nat Crowley, who yesterday was elected to the Maine Sports Hall of Fame. Please join me in wishing him our congratulations.

Representative Crowley of Stockton Springs was granted unanimous consent to address the House:

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: Thank you very much. This is quite an honor to me -- I can't even walk now and I am going to be honored for being an athlete. It is a great honor for me and I appreciate your recognizing it. Thank you.

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

ORDERS

On motion of Representative MCHENRY of Madawaska, the following Joint Order: (H.P. 1421)

Ordered, the Senate concurring, that the Joint Standing Committee on Labor report out Bill, "AN ACT to Encourage Prompt and Peaceful Settlements of Labor Disputes," H.P. 1415, L.D. 1919, to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act to Encourage Prompt and Peaceful Settlements of Labor Disputes" (Emergency) (H.P. 1415) (L.D. 1919)

Signed:

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

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

Signed:

Senator: COLLINS of Aroostook
Representatives: WILLEY of Hampden
HEPBURN of Skowhegan
BEGLEY of Waldoboro

Reports were read.

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

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority "Ought to Pass" Report.

L.D. 1919 is a bill that we put in to address the problems that the Governor had in his veto message of June 30th, I think it was. This bill is trying and I believe it does address the problems that the Governor had with the previous bill that we had before the First Regular Session of the Legislature.

It is my understanding that our Senators in Washington would love to see something happen in this field where we have professional strikebreakers coming into the State of Maine taking away jobs from the people in the State of Maine. This is why this bill is before us. We all know what is happening in this state. I, for one, really know what is happening and I can tell you that my people accepted a contract while I was home under real tremendous pressure because of the way the corporations are acting in this state. I believe that totally unfair and unrealistic pressures are being put upon the working people of this state.

I was down here working on the Workers' Compensation Bill, I intended to vote on the contract but I was not given that opportunity because the company had put it out, I believe it was, on Wednesday and they told the employees that if they did not accept the contract by the 29th, that certain issues like double time on Sunday, time and a half, and a lot of language would be removed from the contract. Essentially they were saying, if you go out on strike, you lose your job. My fellow employees had seen in the previous few days where the company had fenced the whole area and it looked like a jail. It made people feel really fearful.

The day that they were asked to vote, the professional strikebreakers were in town, we had a whole lot of new faces in town and I assure you, ladies and gentlemen, that people were extremely fearful that what happened in Jay might happen in Madawaska. Like I said before, I pray to God (and apparently my prayers have been answered) because the people have accepted a contract, a five year contract.

I have talked with other paper industries and they couldn't believe that we accepted a five year contract but, when you have people hanging by a thread, not knowing what might happen -- I have been at Fraser for 27 years and I have seen how we negotiate a contract and "every time" the company would ask for extreme concessions, knowing full-well that we would reject the contract offer. This time, I am sure they were almost in shock that the people accepted it. They did it because of the tremendous fear. I did not vote because I was not there and I really don't know how I would have voted. I wasn't there to see all that was happening and I wasn't there to hear what the people talking in behalf of the company said. I am a working person and I have seen contracts before but I cannot say that I would have voted for or against because I was not there. I might have voted for it; I might have voted against it. I can't honestly tell you. This is the livelihood of people and when you see people losing their jobs to professional strikebreakers, it is a heartbreaker for me to see that happen to our fellow working people of this state. It is not right, it is not justifiable by any stretch of the imagination. It is absolutely unfair.

That is why this bill is in. It addresses the qualms that the Governor had with the first bill that we put in.

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

Representative WILLEY: Mr. Speaker, Men and Women of the House: I was quite surprised to see this bill before us today because this bill was never

referred to committee and there were never any hearings on it whatsoever. It was never discussed. As a matter of fact, it was my understanding that it would come up in January and not in this session. I was surprised to see it rear its ugly head today.

As was mentioned, the Governor did veto a similar bill in June and this one doesn't change the situation a lot, I don't think. In the original bill that we had before, it said in several instances that if you do something once, it is customary and repeated. In this one, it leaves out the two times. Now it says, "customary and repeatedly in the normal course of business offers himself or others for employment" — that would mean himself. For instance, an individual might apply for a job as a champion and was on strike at the time and then go to IP and offer himself at a different time for employment — the union or the employer could get an injunction against the company and button it up. I do not believe that that is what is meant by formal strikebreakers, by people who make themselves available only in the instance of breaking a strike. I don't believe that that was the intent of it at all. It does cover virtually everybody except security guards and maintenance people who may be maintaining the machinery which they sold.

In the bill that the Governor vetoed previously, we had excluded security guards and we had excluded maintenance people who did this sort of work on equipment that was there that they sold (maintaining warranty work and this sort of thing). I don't see any difference in this bill at all and I personally doubt and I have no idea in the legal sense whether it violates federal law or not — it seems to me to be contrary to federal law and I sincerely hope that we will be able to defeat this bill today and vote against the motion.

I do ask for a roll call.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: This bill was designed to meet the Governor's objections. This is a sincere attempt to deal with a very serious situation in our state.

I would like to read to you from Governor McKernan's veto message on June 30th. "If legislation was presented, which regulated firms whose sole business was to provide replacement employees, striking workers, the Supreme Judicial Court rules or advised that such legislation did not violate federal law. I would accept legitimate so-called anti-strikebreaker legislation."

This bill was drafted to meet those concerns. Representative Willey says, "any person who customarily, repeatedly, in the normal course of business, offers himself or others for employment to perform the duties that are normally assigned to employees in a labor dispute, strike, or walk-out" — therefore, this bill simply allows the labor union to deal with this situation in the courts. This is not a new issue to this body. This bill was introduced into Legislative Council October 11th and this bill was on your desks when you arrived here on October 21st, L.D. 1919.

Again, I will repeat that there are many people who feel that this bill is very necessary. The people that this bill will help need help now, not in January, not in February, they need help now. Their lives are on the line.

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

Representative WILLEY: Mr. Speaker, Men and Women of the House: There is one other item that I would like to call to your attention and I don't mean

to prolong this because I would like to get home too. Apparently, we have to wait a little while.

I call your attention to the top of Page 3. "Employment or retention — to employ or retain any person or organization which customarily and repeatedly" — it says retain and I gather from this that if this bill went into effect, those people who were hired in the recent strike, which is still going on, wouldn't be able to retain those people, you'd have to get rid of them and hire back the original people, the ones out on strike. That seems to me to be crossing a bridge before you get to it because it seems to make it retroactive.

I call your attention again to the fact that it does deal with individuals because it refers repeatedly through the bill to an individual, not just a company, somebody who might do this as a business, an individual, a person and, therefore, I think it is far out of line so far as the professional strikebreaker affair is concerned.

I urge you again to defeat this bill. It is something that we can do without in our economy today.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I urge you to please vote favorably on this legislation. Too many of our Maine people are being hurt because without this law, out-of-stater's are allowed to come in and take over the jobs of our people. Large corporations are allowed to continue to operate with these scabs, while our Maine workers, upon whose backs and work ethics this state was built, are left without income. While our workers are waiting and waiting for the so-called bargaining process to help them, the company is operating and making profits with the help of these out-of-state people. What incentive does company management have to bargain in good faith when they can continue to operate? Let me tell you, they have absolutely none.

Take a look at what is happening in Jay. Go over there, look into the eyes of the workers who have no leverage in the bargaining process. Quite simply, all they can do is sit back and wait until the company feels like bargaining and, as they sit and wait for the company, their savings dwindle, the pressure mounts to pay for the necessities of life like housing, food, heat and the despair of possible poverty and long-termed unemployment grows. In many cases, families are torn apart. I don't know about you, ladies and gentlemen, but if I were in their shoes as Thanksgiving and Christmas approaches, I would be able to find very little to be truly thankful for.

The playing turf is absolutely unfair and I ask you all to help right this wrong. You sent a message down once to the second floor this year on this issue and I urge you to do so once again.

The Governor talks about economic development and jobs for Maine people — yet he allows Maine jobs to be taken over by out-of-stater's — isn't that talking out of both sides of his mouth? Let's give him a second chance to make the right choice. After all, even we get a second chance to vote on issues.

Representative Joseph has written this bill in a manner that will help Maine workers, while meeting the Governor's concerns, which he stated in his veto message during the First Session. So, let's give him another chance and let's give the workers of Maine a fighting chance. We all know, ladies and gentlemen, that a vote we took today may hurt many workers — let's vote this time to give Maine workers a greater opportunity to keep their jobs through good faith bargaining with Maine employers.

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

Representative HALE: Mr. Speaker, Men and Women of the House: The purpose of this bill is not to prohibit a company from hiring. The purpose of this bill is to prohibit a company from replacing workers during a strike with professional strikebreakers such as BE&K. It is to prohibit them from utilizing an individual professional strikebreaker, it is not to discourage or prohibit them from hiring replacement workers.

The purpose of introducing this has been explained by Representative Joseph, that the part that was objectionable to the Governor has been removed. We need to do something to stop the continuing practice of bringing into the State of Maine professional strikebreakers.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Men and Women of the House: I am very impressed on how everyone is able to speak so eloquently on this issue today. I don't know where they had their public hearing but I wish they had invited me when they did.

We are dealing with something that has been very controversial between this body and the Executive Branch. We are dealing with language that really hasn't been looked over much more than a few minutes today. We don't know what the ramifications are. I didn't realize that we were even going to talk about it until an hour ago when I signed the jacket on it.

It is just voting in the dark, it is not what the process is about, it is very hasty -- let's talk about it in January when we talk about all of the bills and put it through the same normal legislative process.

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: As a member of the Labor Committee, I was dismayed and disappointed when I was called out into the hall just a few minutes before our lunch break and asked to sign the jacket for the bill that you have before you now.

I would reiterate what Representative Willey and Representative Hepburn has said -- we have had no public hearing on this, we have had absolutely no committee action, no chance to talk it over and it is my understanding that it does not address all of the Governor's concerns. I do believe that we should be addressing it in January and I am under the impression that, even if this were passed, it would not help the situation in Jay. I would be happy to have someone address that if I am wrong so I would encourage you to vote against this bill.

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

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I don't know why people are dismayed and surprised and what have you, we all realize that I put in an Order awhile ago, we were all here in the chamber. We all know full-well that the Labor Committee held an extremely long hearing on this issue. We have had hearings on strikebreakers -- you can shake your heads but we did. If my memory serves me right, we had very long hearings in Room 113 on strikebreakers. We all know what the strikebreaker bill is about, we debated it June 30th. If we had not had a bill before us, how could the Governor have vetoed a strikebreaker bill? He did veto it June 30th so we must have had a hearing sometime. Unless my mind is failing me, I would like someone to tell me differently but we already had a hearing on strikebreakers -- not the exact same bill

that you have before you because the bill we have before us is here to address the problems that the Governor had with the first one.

I would hope that you would vote to pass this bill.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I really don't want to talk to the particulars of the bill but I would like to talk about the process.

Yesterday we passed an Order carrying this bill over to the Second Regular Session. I think we are nearing the end of the Special Session where we have proven, people of both parties, people of both branches, that we can come together to solve a problem. I am not sure if there are those out there who don't want us to work together, I would hope not. I would hope that there is no one out there at this time and this hour who wants to repolarize this chamber. I would hope not.

We have just finished the experience of working together. The Representative from Waterville came to the Council and I told her during that meeting that we very much want to address this problem. We were told that there was going to be a serious effort to talk with the Governor's Office, that did not occur. No final drafted bill, no sincere effort to put this bill back into committee, a committee that has proven to this body that there is a process where they can come together and solve problems. They have that record, a proven track record, that they can solve a crisis.

I am opposed to the bill because of the process and I would hope that we could look at that process but maybe look ahead to the future in terms of momentary short-term gain or looking toward January and February of coming together on this problem and finding a mutual solution. Passage today will recreate that polarization.

Every member of this body on the way home, hopefully this afternoon, can go home with head held high. We have a choice now in terms of how the newspapers will report this special session. There have been members of this body from both parties who have acted with dignity and courage or will the newspapers tomorrow at the moment of one of our greatest accomplishments, mutual accomplishments, report the legislature beginning again fighting among itself and business as usual? I would hope that if we defeat this process, not the bill, but defeat the process, that we can have a motion or an Order to refer this bill back to committee so that the Labor Committee, which has proven to us what they can do, can begin to work and reestablish that process again.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I respect the comments of the minority leader and share many of his thoughts. I have to be quite honest with you that the issue before us is not the process but the issue before us is a very important measure, a very important bill. I have to be more honest with you when I say that I am not really all that concerned in how the press reports that we are holding hands as we walk out of this chamber today.

Time and time again during the year, the good Representative from Kennebunk has risen to defend the Governor of this state on a variety of issues, labor related issues particularly. On more than one occasion, we have heard the comments of how important it is to develop this philosophical concept of a

level playing field. It is so unique and important for this delicate balance of negotiations between management and labor can take place. We are beginning to hear hints of this again today.

I would suggest that we need to take a look, a real hard look at the real world. There are nearly 1,000 workers in Jay right now who are asking the same question. You have got nearly 1,000 workers in Jay right now who may never go back to work again and they are also looking for that level playing field. The problem is that it doesn't exist. When we, as a policy in this state, say that management simply has the right to blatantly get rid of a work force rather than negotiate, that is not a level playing field. There is no incentive for them to negotiate over wages or benefits or any other issue when one side can simply eliminate the other by bringing in a new work force at a lower wage rate.

Every Wednesday night up in Jay, Maine they have a rally. For those of you who haven't had the opportunity to attend those, I suggest you might want to try it sometime because they also have a philosophical concept about how to achieve that level playing field. It is very simple and its very succinct. It's called "scabs out, union in."

This bill may or may not have direct implications as to what is going on at Jay but it sure as heck has implications of what is going to happen at Keyes-Fibre in Fairfield and Waterville, what is going to happen at Scott Paper Company in Winslow and what is going to happen at S.D. Warren in Somerset later this spring when their contracts come up.

This issue is more than a debate on the process, Representative Murphy, it is a debate on a very important measure. I hope you all consider that.

Representative Willey of Hampden was granted permission to address the House a third time.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't deny that this is an important issue, it is a very important issue. It being that important, wouldn't you think that since this bill has been around now a month or so or something like that, that it might have been referred to the Labor Committee, that there would have been public hearings, that this whole issue would have been aired out and both sides of the argument presented in a tangible fashion and both sides of the issue talked about to a point where you could understand what was going on rather than the side-tracking affair that happened here where it has not been referred for any discussion whatever until today? That, seems to me, if it is not important enough to go to a hearing, then I don't understand the importance of it. The importance of a hearing is to air these issues out, let people have a say on both sides of the issue. I think it is absolutely wrong for anything of this importance to be sidetracked to a point where the public doesn't get involved at all.

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

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I cannot believe that anyone in this body would vote against this bill because of the process. This is a good bill. I believe it is very much needed. We voted for a similar bill before. The passage of this bill is not going to change the final vote on the workers' comp bill. I voted against the Labor bill because I felt it was unfair to the workers in benefit cuts and relocation, but I voted for the final bill because I knew we needed to address a serious situation that this state is in. I did it very, very reluctantly because, as

you know, I come from a union town. I would certainly hope you would vote in favor of this bill.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: "My personal abhorrence of having Maine jobs potentially being filled, even temporarily by "non-resident contractors" is a sad reminder of what can happen when the collective bargaining process breaks down. We all suffer when there is labor/management strife" — Governor John R. McKernan, June 19, 1987.

"If the widespread use of replacement workers that is now occurring upsets the appropriate balance between management and labor and collective bargaining, it seems that we should take a look at this" — Senator George J. Mitchell.

Senator Cohen says he sees "A clear parallel between the football players strike and the National Football League and the paperworkers strike underway at the International Paper Company plant in Jay." Cohen also said, "The same strategy that has been used by some other companies across this country to break union strikes is a key question unanswered in his mind as to whether companies and team owners have bargained in good faith." Both our U.S. Senators believe that this question is an important question for the State of Maine and needs scrutiny by the U.S. Congress and needs a law in this state.

This bill is the same bill we debated on May 29th, June 1st, June 8th and June 30th. This bill's public hearing was held April 6th. The only difference in this bill is using, in the normal course of business, the omission of the presumption clause which defines a person as a strikebreaker if they did this once or twice. I urge you to vote for this bill and let the courts decide if professional strikebreakers are in this state. There is a need for this legislation.

I feel it essential that I reply to Representative Murphy's accusation that I had not contacted the Governor's Office. I had three distinct conversations with the Governor's special assistant. We also talked about me seeing the Governor. The Governor was unable to see me. The Labor Committee, as you well know, went into deliberations and has not had more than one or two days a weekend days — occasionally we worked on Saturday in order to hear another bill. The sponsors of this bill felt that this bill could stand on its own because it had been thoroughly debated in both chambers of this legislature.

I urge you to deal with this bill fairly and honestly.

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. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 183

YEA - Aliberti, Allen, Anthony, Bickford, Bost, Boutilier, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Coles, Cote, Crowley, Daggett, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey,

Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, LaPointe, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, P.; Paul, Perry, Pouliot, Priest, Rand, Richard, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Soucy, Swazey, Tamaro, Thistle, Tracy, Vose, Walker, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bott, Callahan, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Harper, Hepburn, Higgins, Holloway, Jackson, Kimball, Lawrence, Look, Lord, MacBride, Marsano, Matthews, K.; McPherson, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Reed, Rice, Ridley, Salsbury, Seavey, Sherburne, Small, Stanley, Stevens, A.; Strout, B.; Strout, D.; Taylor, Telow, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey.

ABSENT - Baker, Bragg, Clark, M.; Conley, Hanley, Hillock, Ketover, Lacroix, Lebowitz, Paradis, J.; Racine, Reeves, Rolde, Scarpino, Stevens, P.; Stevenson, Tardy, Warren, Zirkilton.

Yes, 75; No, 57; Absent, 19; Paired, 0; Excused, 0.

75 having voted in the affirmative and 57 in the negative with 19 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

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

Representative Priest of Brunswick offered House Amendment "B" (H-436) to L.D. 1919 and moved its adoption.

House Amendment "B" (H-436) was read by the Clerk. The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: Section 856 is a criminal penalty in the current strikebreaker law, which this bill will be part of. The bill itself was enacted in 1965 with that penalty, that penalty has never been used. The bill which you have before you contemplates a civil injunction as a means of enforcing this law rather than criminal penalty. Criminal penalties involve such things as Fifth Amendment rights and makes enforcement much more difficult; therefore, this amendment would remove the criminal penalty and would rely on civil enforcement primarily through injunction which is the intent of the bill.

Thereupon, House Amendment "B" (H-436) was adopted.

Representative Gwadosky of Fairfield offered House Amendment "A" (H-435) and moved its adoption.

House Amendment "A" (H-435) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-435) and House Amendment "B" (H-436) thereto and sent up for concurrence.

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

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

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333
November 20, 1987

The Honorable John L. Martin
Speaker of the House
113th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Energy and Natural Resources, the Governor's nomination of Margaret M. Roy of Cornish for appointment to the Board of Environmental Protection.

Margaret M. Roy is replacing Evelyn Jephson.

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

Was read and ordered placed on file.

The following Communication:

The Senate of Maine
Augusta

November 20, 1987

Honorable Edwin H. Pert

Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Senate Paper 685, Legislative Document 1914, An Act an to Amend the Insurance Law Relating to the Type of Coverage Provided by Insurance Carriers, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Thirteen Senators having voted in the affirmative and Twenty-two Senators having voted in the negative, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

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

Was read and ordered placed on file.

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

SENATE PAPER

Bill "An Act to Make Technical Corrections in the Workers' Compensation Act" (Emergency) (S.P. 710) (L.D. 1932)

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

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

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

By unanimous consent, was ordered sent forthwith to engrossing.

(At Ease to the Gong)

The House was called to order by the Speaker.

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

PASSED TO BE ENACTED

An Act to Encourage Prompt and Peaceful Settlements of Labor Disputes (H.P. 1415) (L.D. 1919) (H. "A" H-435; H. "B" H-436)

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

Representative Paradis of Old Town requested a roll call vote.

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

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

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

ROLL CALL NO. 184

YEA - Aliberti, Allen, Anthony, Armstrong, Bickford, Bost, Boutilier, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Coles, Cote, Crowley, Daggett, Davis, Diamond, Dore, Duffy, Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, LaPointe, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; O'Gara, Oliver, Paradis, P.; Parent, Paul, Perry, Pouliot, Priest, Rand, Ridley, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Soucy, Strout, D.; Swazey, Tamaro, Telow, Thistle, Tracy, Vose, Walker, The Speaker.

NAY - Anderson, Bailey, Begley, Bott, Callahan, Curran, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Harper, Hepburn, Higgins, Holloway, Jackson, Kimball, Lawrence, Look, Lord, MacBride, Marsano, Matthews, K.; McPherson, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Pines, Reed, Rice, Salsbury, Seavey, Sherburne, Small, Stanley, Stevens, A.; Strout, B.; Taylor, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey.

ABSENT - Baker, Bragg, Clark, M.; Conley, Dutremble, L.; Hanley, Hillock, Ketover, Lacroix, Lebowitz, Nutting, Paradis, J.; Racine, Reeves, Richard, Rolde, Scarpino, Stevens, P.; Stevenson, Tardy, Warren, Zirnkilton.

Yes, 78; No, 51; Absent, 22; Paired, 0; Excused, 0.

78 having voted in the affirmative and 51 in the negative with 22 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

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

PASSED TO BE ENACTED
Emergency Measure

An Act to Make Technical Corrections in the Workers' Compensation Act (S.P. 710) (L.D. 1932)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 10 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

Representative Davis of Monmouth was granted unanimous consent to address the House:

Representative DAVIS: Mr. Speaker, I would like to be recorded as nay on Supplement No. 9, L.D. 1919 instead of yea. Thank You.

At this point, the Speaker appointed Representative DIAMOND of Bangor on the part of the House to inform the Senate that the House had transacted all business before it and was ready to adjourn without day.

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

The Chair appointed the following members on the part of the House to wait upon His Excellency, Governor John R. McKernan, Jr., and inform him that the House had transacted all business before it and was ready to receive any communication that he might be pleased to make.

Representative RYDELL of Brunswick
Representative ERWIN of Rumford
Representative CLARK of Millinocket
Representative SIMPSON of Casco
Representative TARDY of Palmyra
Representative TRACY of Rome
Representative BOTT of Orono
Representative WEBSTER of Cape Elizabeth
Representative CURRAN of Westbrook
Representative GARLAND of Bangor

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

At this point, the Governor entered the Hall of the House, amid prolonged applause, the audience rising.

Governor McKernan then addressed the House as follows:

Thank you Mr. Speaker, Members of the House: I appreciate your staying to hear my remarks. You know Jonathan Swift once said, "It was a bold man who first ate an oyster" -- well you can tell how many of you have ever seen an oyster.

It was a bold legislature that was willing to sink its teeth into such an extremely and divisive issue as workers' compensation. Twenty-nine days ago, I know it seems just like yesterday, 29 days ago at the start of this special session, I told you that I was confident that I would be back to commend you for confronting and resolving a very real crisis. Well today, I am here to do that and more. I think this legislature has indeed proved that the system works. To the tremendous credit of the Banking and Insurance and Labor Committees, the process from the start was marked by a desire to do the very best for the people that we serve, even though, frankly, that meant making some very, very difficult decisions and some hard choices.

Robert Frost once observed that the only way around is through. That is rarely, however, the easiest or the most comfortable path. Today, I just wanted to take this opportunity to thank you in the House as well as your colleagues in the Senate for having the courage to stick to the high road.

What might have quickly and easily degenerated into a fierce political squabble - didn't. Frankly,

because it didn't, workers in our state will continue to be protected as of January 1st.

What is perhaps the most striking about the work that has been done in these long days of the past month is that Maine's Workers' Compensation system has not only been stabilized but it has been strengthened. The retraining and rehabilitation programs mandated in this legislation, the focus on helping workers return to productive lives, the emphasis on safety in the workplace, they are all significant additions to our current law.

I also want to take this opportunity to publicly thank members of my staff who worked as tirelessly as those of you in this chamber, particularly Susan Collins and Joe Edwards for their commitment to forging a stable and strong workers' compensation system. I feel extremely fortunate and I feel that the state should feel extremely fortunate to have people of their dedication and their caliber working for us in state government. I wish that Dave Dutremble was here because I would also like to thank him for having his son Dennis. (applause) (I just wanted to even that out.)

Seriously, workers' compensation has, in the past few months, taken the time, the energy, and even the sleep of a great many of us in this room. The crisis with which we were confronted forced us all into a defensive and reactive position. Well, the crisis is over and thanks to all of you, we have been able to solve it and solve it in a way that I think benefits the people of this state.

I look forward to addressing in a very proactive way, a number of challenges and opportunities that we are going to be facing in the future in this state, whether it is challenges such as growth management or education or welfare reform. I think this special session has confirmed my belief that we can work together and, when we do, we can do much for this state.

I look forward to having you back in Augusta in January for the Second Regular Session of the 113th Legislature. Thank you very much and congratulations. (Applause, the audience rising.)

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

The Chair recognizes the Representative from Wells, Representative WENTWORTH.

Representative WENTWORTH: Mr. Speaker and Members of the House: I move the House stand adjourned sine die.

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

The motion prevailed and at 4:47 p.m., Eastern Standard Time, Friday, November 20, 1987, the Speaker declared the House adjourned without day.

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND SPECIAL SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
November 20,

1987

Senate called to Order by the President.

Prayer by the Honorable Edgar E. Erwin of Oxford.

SENATOR ERWIN: Let us pray. Our father may Thy spirit be upon us today. Guide us as we carry out our responsibilities. May we work together and be mindful of our capabilities and our limitations as we attend to the needs of those we represent. May we remember that our goal today is to attack and defend the individuals of this state who have placed their faith in our compassion and in our sense of justice. Grant us the wisdom to work together as one and to cooperate with one another. May the pursuit of common goals bind us together in harmony. Amen.

Reading of the Journal of Thursday, November 19, 1987.

Off Record Remarks

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

Senator DUTREMBLE of York was granted unanimous consent to address the Senate off the Record.

On motion by Senator PEARSON of Penobscot, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

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

Emergency

An Act to Exempt the First Certificate of Need Continuing Care Retirement Community Demonstration Project from Certain Requirements

S.P. 699 L.D. 1924

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in negative, and 28 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, having voted on the prevailing side, I now move reconsideration and I would urge you to vote against my motion.

Senator PERKINS of Hancock moved to RECONSIDER ENACTMENT.

A Viva Voce vote being had, the motion of Senator PERKINS of Hancock to RECONSIDER ENACTMENT, FAILED.