

Legislative History for Connecticut Act

HB2391 PA491 SCRW 1961
FAT
House 3459 - 3468
Senate 2970 - 2976
Labor 369-370, 409-410, 428,
442-443, 446-448, 454-456
34ps

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H. 58

CONNECTICUT

GENERAL ASSEMBLY

HOUSE

PROCEEDINGS

1961

SPECIAL SESSION

VOL. 49

PART 7

3081-3587

Thursday, June 1, 1961.

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only a little better.

I can see no harm at all in any of these amendments; they are almost all technical and necessary. I hope the Amendment is carried.

THE SPEAKER: Will you remark further on the Amendment? The gentleman from Watertown.

MR. VERNOVAI OF WATERTOWN:

Mr. Speaker, I rise to support the Amendment. I think that the amendment was clearly explained by the gentleman from Salisbury and I concur wholeheartedly with his remarks and urge everyone to support the amendment.

THE SPEAKER: Will you remark further? If not, all those in favor indicate by saying aye; opposed no; the ayes have it and the amendment is adopted.

We will now proceed on the bill as amended. The gentleman from Norfolk.

MR. ZANOBI OF NORFOLK:

Mr. Speaker, I move acceptance of the Committee's favorable report and passage of the bill as amended.

THE SPEAKER:

The question is on the acceptance of the Committee's favorable report and the passage of the bill as amended. Will you remark?

MR. ZANOBI OF NORFOLK:

Mr. Speaker, House bill 2391, certifies and revises the entire workmen's compensation act, thereby clarifying several sections of the act. It brings together in logical order the various

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biennial enactments and draft of this act, and sets these up in logical fashion, instead of the present hodge podge. In reporting this bill I would like to point out that much credit is due the subcommittee who worked diligently for many days to arrive at the final draft. The subcommittee consists of the gentleman from Salisbury, the gentleman from Canton, the gentleman from Watertown, and the gentleman from New Haven.

A VOICE:

Mr. Speaker, this bill is the result of many months of dedicated effort and hard work both before and after the start of the present session, and I mean much, by the gentleman from Salisbury, Mr. Rand. He not only gave of his own time but also used the facilities of his own office for the preparation of this very comprehensive act. At the public hearing, representatives of opposing sides, while at times disagreeing with some of the particulars of the bill, were unanimous in praising ... such a clear and orderly act. Mr. Speaker, I will not go into detail, but let the gentleman from Salisbury, the very capable author of this bill, explain it. Mr. Speaker, I yield to the gentleman from Salisbury.

THE SPEAKER: The gentleman from Salisbury.

MR. RAND OF SALISBURY:

The main changes of this act makes in substance the present law, in the first place excludes part time domestic workers; it clarifies and in a sense changes the actual rights and liabilities of the parties; it eliminates entirely any recourse to common law action, which have been provided in one way or another all the way

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through the act; incidentally it eliminates the liability of directors of corporations which was considered rather offensive in the 1959 revision; and it also, since it has come to the assembly, now increases the benefits in some cases due to partial incapacity by specific injuries. I will point out but three or four of the major changes which might be of interest to the members of the House and can easily be pointed out.

If you will turn to page 2, line 25, the first line 25, the little paragraph D --a,b,c,d - these are employees excluded - who will be excluded if this act becomes effective, and I think will appeal to a great many members not in business. It excludes any person working around a domestic household, inside or out, who works for that employer for less than 26 hours per week. In other words, after this act becomes effective, you can have a baby sitter, or a person helping in the house, or a yardman or a lawn mower for up to a little more than three days a week, without being subject to the act. It also - the little e, in that same paragraph, excludes corporate officers who elect to be excluded and they simply have to give written notice to the employer and the Commissioner. Now, otherwise, that first section which is the same as the present 31-139 is the same.

Now we get to page 5, Section 6, there is another change here wherein we seek to create the office of a Commissioner at large. There are now five - there always have been five Commissioners, one for each Congressional district; they are dedicated men who work hard; they have never had any help when they are sick or are taking

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vacations, since no one else can sign their awards and forms the work piles up. They cost the state very little money; they are a model of thrift in that office. This entire act was administered last year for the whole State of Connecticut, the whole five districts, all the help, and the Commissioners for \$180,000. This simply creates the power to appoint a Commissioner-at-large, on a part time basis by the Chairman of the Commission Leo Noonan, when he feels it is necessary because of sickness. He asked for this and we all on the committee and sub-committee would like him to have it.

Page 6, Roman Numeral 2, Section 10, 11 and 12. This is the most substantial change in the operation of the law and takes all of these old sections, some of them ineffective and very ambiguous which provided election for common law remedies ... a great many indefinite terms which are difficult of construction and it takes them all and provides for a fine up to \$1000 for noncompliance with the Act in the way of insurance coverage; a \$250 fine for lesser violations of the Act; and both of these fines or any money coming from any of these fines would be put in the second injury fund.

I am going to skip through here, and cover very little unless somebody wants to ask me questions, then I will be glad to answer them. We originally did away with the disclaimers - intended disclaimers which were felt to be rather offensive. We have now put them back in a different section and raised it to 20 days. It is now on page 12, the last part of Section 19 - the disclaimer language

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There was a great ambiguity in the present act because the word due was used when the - due - when the award was due. Nobody can say when they are due legally. That has been clarified on page 15, Section 26, at the bottom of the page. That is a whole new section, to qualify when payments become due.

On page 19, of Section 31 of the increased specific benefits you'll find that the arms are both ways by 21 and 16 weeks ... the legs by 30 weeks, the foot by 32 weeks, the eye - one eye by 27 weeks and roughly each of the fingers by six weeks.

Going along, I have marked here a great many small and technical and simply corrective clauses, which I will not go in to. Now, we come to the section, the other big part of the act, after all the operation of ordinary claims is the portion concerning waivers and second injury charge. There is very little change in that of a substantial nature. I think the principal one was to redefine what - how insolvent or how unable an employer or his insurer has to be unable to pay the compensation before the second injury fund takes effect. Other than that we changed nothing in those sections. Waivers are still just as they were or substantially; the second injury fund remained at \$50,000 and also now has the benefit of any possible fine brought in under Section 10 and 11 in this Act.

Now, I have skipped over an awful lot of small changes and I'll be glad to answer questions, but I will say no more unless you have questions, except that I think this will be a good law; it should work; a great many bad things have crept in over the years; the law has rather grown like Topsy, and this Act seeks to

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correct them all by repealing the whole chapter and writing it as you have it here in your file. Thank you, Mr. Speaker.

THE SPEAKER: Will you remark further? Gentleman from Old Lyme.

MR. PATTERSON OF OLD LYME:

I'd only like to pay tribute to the wonderful job the gentleman from Salisbury has done in reworking this entire area of our law. I naturally hope the bill will pass as I think it contains many improvements aside from what he has done on it, but his work has truly been beyond the call of usual legislative duty and I think he deserves our heartiest congratulations.

THE SPEAKER: The gentleman from Guilford.

MR. DUDLEY OF GUILFORD:

Mr. Speaker, I too, would like to concur with the remarks of the gentleman from Old Lyme with reference to the dedication with which the gentleman from Salisbury has approached this problem. I think in this particular area, although it may be a specialized area, is that too few people would realize it is a lot of hard work, and particularly when we have had a law on our books since, I believe somewhere in the neighborhood of 1913. The extensive difficulty in a major revision of a type or body of a law of this type. I have reason to believe that this type of legislation will enjoy bi-partisan support and I only again would like to concur in the remarks - I do think the gentleman from Salisbury deserves a great tribute for this work.

THE SPEAKER: Will you remark further? The gentleman from Watertown.

MR. VERNOVAI OF WATERTOWN: Mr. Speaker, this bill makes many

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technical changes and accomplishes two important objections. First, it cleans up the entire act and makes it both logical and understandable; and secondly it provides a number of substantial improvements which will on one hand afford up to date protection for the employee and on the other hand will make the Act administratively more workable for the employer. This bill assures that Connecticut will continue to have a modern and an effective workmen's compensation law, and I too, would want to congratulate the gentleman from Salisbury for the remarkable job he did in rewriting the bill, because the bill was getting pretty much out of hand with the various amendments that were being made, and I think everyone should support this and report it out unanimously.

THE SPEAKER: Will you remark further? The gentleman from Westbrook.

MR. SCHLOSSBACH OF WESTBROOK:

I too, would like to congratulate the gentleman from Salisbury because he sat along side of me in the Judiciary Committee and I have always wondered why he was absent so often. I now know where he was.

THE SPEAKER: The gentleman from Farmington.

MR. NOYES OF FARMINGTON:

Mr. Speaker, I would ask the gentleman from Salisbury a perhaps minor question, but whether or not the Act as it stands in our files is intended to change in any way the recent Supreme Court decision with respect to scars and workmen's compensation resulting therefrom.

THE SPEAKER: The gentleman from Salisbury.

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MR. RAND OF SALISBURY:

Through you, Mr. Speaker, I would inform the gentleman from Farmington that it does not. There was some talk during sub-committee work and at one time we had a clause in there which would undo the recent Supreme Court decision, but it was felt advisable not to change the law and the construction by Supreme Court. With respect to scars, this act is exactly the same as the present law.

THE SPEAKER: The gentleman from Farmington.

MR. NOYES: OF FARMINGTON:

Mr. Speaker, I think a very fine job has been done and I bow to the Committee in their knowledge of this law. I think it is difficult however, in bringing out the law at this late date and again, those people who will have to live with the administration of it on both sides of the fence, the employees and the employers, have not had a chance to go over the thing as it stands now. I trust and believe it will be as workable as we hope that it will be.

I would also say that the increases in the specifics are certainly - represents an increase which I entirely support, for the simple reason that I think in the present state of our Courts and laws, what an employee gives up - an individual when he comes under workmen's compensation, gives up the right to go to Court and sue for damages who people who are injured, not in the course of employment, may be able to get, and if you read the newspapers you know that if an individual is severely injured, he can usually collect from a sympathetic jury, a very substantial amount. At the same time I could not sit down without again calling the attention of

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of this House, that although we are talking about support for widows and children and financial reparation for that which cannot be replaced, members of the human body, we are also talking about in this law, the cost to employers and I hope and trust that this and future labor committees will bear this in mind as we talk about our competitive positions.

THE SPEAKER: Will you remark further? The gentleman from New Haven.

MR. ROURKE OF NEW HAVEN:

Mr. Speaker, I rise to support this bill and to briefly mention the length of time that people have worked on it. After the 1959 Amendment to the law, the Labor Committee was called together and one of the assistants in the Legislative Commissioners office worked for about a month making recommendation she thought were necessary. Then the Legislative Council had a subcommittee and they put someone to work and worked about the same length of time. Our attorney from the State Labor Council, worked about two weeks on it; sometimes in consultation with Commissioners; sometimes with members of our staff; and then I know the gentleman from Salisbury worked a good part of the summer on it, and although this is getting to be a little repetitious, I too want to add words of praise for the hard work that he put into this bill. I also think the subcommittee, the gentleman from Watertown and the gentleman from Canton along with others worked for at least a week, right during this session on it, and then we have the eight page letter from one of the Commissioners, which was really the reason for the Amendment

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explained by the gentleman from Salisbury. So, all in all, this has been, I think, a real good job and I hope the bill passes.

THE SPEAKER:

Will you remark further? If not, all those in favor of the bill indicate by saying aye; opposed no; the ayes have it and the bill is passed as amended.

THE CLERK:

Please turn to page 16 of the Calendar, the third item from the bottom.

Calendar No. 1206, File No. 945, Senate Bill No. 1239, an Act granting Shirley Romano, Vera Cranelli and Michael Spinelli permission to Sue the City of Milford.

Favorable report of the Joint Committee on General Law.

This bill passed the House on May 29th and was reconsidered.

THE SPEAKER: The gentleman from Fairfield.

MR. FENNELL OF FAIRFIELD:

Mr. Speaker, I move for acceptance of the joint favorable report and passage of the bill.

THE SPEAKER:

The question is on the acceptance of the Committee's favorable report and passage of the bill in concurrence with the Senate.

Will you remark? The gentleman from Fairfield.

MR. FENNELL OF FAIRFIELD:

It is unfortunate that I have to go through this again but this is a bill to validate a defective notice in an action in which suit was brought against the City of Milford. It is brought on

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SENATOR ALFANO:

This amendment makes it permissive for the State to convey this property instead of mandatory.

THE CHAIR:

Are there further remarks on the amendment? If no further remarks the question is on the adoption of the amendment. Those in favor will signify by saying "aye". Opposed. The amendment is adopted.

Are there further remarks on the bill? If no further remarks the question is on acceptance of the committees favorable report and passage of the bill as amended. Those in favor will signify by saying "aye". Opposed. The bill as amended is passed.

THE CLERK:

Cal. No. 2065. File No. 1308. Sub. House Bill No. 2391. An Act revising The Workmen's Compensation Law. (As amended by House Amendment Schedule "A".)

THE CHAIR:

Senator Miller of the 13th district.

SENATOR MILLER:

Mr. President, I move for acceptance of the committees favorable report and passage of the bill.

THE CHAIR:

Care to remark?

SENATOR MILLER:

I now move for adoption of House Amendment Schedule "A". House Amendment Schedule "A" was just a technical amendment, Mr. President.

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THE CHAIR:

Will the Clerk please read the amendment.

THE CLERK:

House Amendment Schedule "A". In Section 1, line 3 of page 2 insert after the word "services" the words "for pay".

In Section 4 delete the sentence beginning with the word "Each" in line 20 and ending with the word "holidays" in line 22.

In Section 5, place a period after the word "act" in line 3 and delete the rest of the sentence.

In Section 10, line 10, delete the word "relatives" and insert the word "dependents".

In Section 15 delete in lines 10 and 13 the words "by award".

In Section 18 after the date in line 45 add the following sentence: "There will not be permanent loss or loss of use of"
(member)

In Section 51 delete everything from the beginning of line 24 through to the period in line 26 and insert the following: "and liabilities of the parties to such waiver as to injuries arising out of and in the course of the employment and within the terms of such waiver shall be such as are provided by law in the case of persons outside the scope of this act."

THE CHAIR:

The question is on acceptance of the technical House Amendment Schedule "A". Those in favor will signify by saying "aye". Opposed. The House Amendment Schedule "A" is adopted.

Any remarks on the bill as amended by House Amendment Schedule "A"?

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SENATOR MILLER:

This bill rewrites the entire Workmen's Compensation Law so as to make it structurally clear. The definition of employees is amended to eliminate the provisions of the act, any person who performs any type of service in or around a private home provided he is not so employed for more than 26 hours per week. This eliminates coverage for baby sitters, part-time gardeners, etc., provided such persons are not employed by the owner or occupier more than 26 hours in any one week. The right of an employee to his employer, or the director of a corporation by which he is employed has been eliminated.

An employer who willfully fails to provide the payment of compensation under the terms set-forth under the act is subject to a fine of not more than \$1,000. An employer who willfully fails to perform any provisions of the act is subject to a fine of \$250. Violations of either of these provisions are to be prosecuted in the appropriate courts.

The Chairman of the Board of Commissioners may appoint a commissioner-at-large in any Workmen's Compensation district in which the burden of cases is such that proper dispensation of the case loads require this additional assistance. Such commissioner-at-large may be appointed from former Workmen's Compensation Commissioners or qualified attorneys from this State and will be paid on a per diem basis. This provision will help substantially in relieving the congestion of cases in the heavy loaded Workmen's Compensation districts.

The time limit for filing claimants by employers has been ex-

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tended from 10 to 20 days. The employer is now required to furnish the employee or his attorney upon request all medical reports concerning an injury to the employee. It also provides that the employee shall be entitled to replacement or repair of eye glasses where damage has been incurred in the course of an injury to the face or head. Employees shall be entitled to payment for the cost of transportation from the plant to the doctor's office and return to the plant where an employee has to receive medical treatment for injury sustained during working hours. Under the present statute the employee is only entitled to one way transportation.

Mr. President, Mr. Rand of the House was Chairman of this subcommittee, Senator Cady did a lot of work on this Workmen's Compensation Law, and although it didn't come out presently like the sub-committee wanted it to, I think it is a bill that we can live with, for a couple of years anyway.

THE CHAIR:

Any further remarks? Senator Cady of the 31st district.

SENATOR CADY:

Mr. President, as we all know, Connecticut was a pioneer in this field of Workmen's Compensation, having passed the first Workmen's Compensation Act in 1913. Since that time the Workmen's Compensation Act has received a great deal of attention and there has been a great many amendments, changes, acted upon session after session. Some good, some undesirable, until we reached a point in this session where we had a very lengthy act which had been amended to a point where it was difficult to find the pro-

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vision you were looking for and you were also confusing provisions which had been inserted without really considering the other parts of the act.

It was a job that required a tremendous amount of work to properly amend and consolidate this act. As a member of the sub-committee who worked on this, I think I can say that unless Rep. John Rand of Salisbury, had done the monumental work that he did on this act during the past year and before this session began, we wouldn't have this bill before us today. It is one of those bills, I'm sure, that if it had not been worked on by Mr. Rand, that it would have had to be referred to some special commission or legislative council without a benefit of an improvement of this law. But because of Mr. Rand's work we were able as a committee to sit down and merely consider what he had one, and I would say that in 95% of the cases we agreed that his draftsmanship, his revision, was a desirable one. So, it was a very easy job for your sub-committee and your Labor Committee as a whole to accept this bill as drafted by Representative Rand with very few modifications.

As Senator Miller has pointed out, the bill makes some very important changes in our Workmen's Compensation Law. It very nicely takes care of this baby-sitter problem, which has plagued home owners and insurance companies during the past two years. It also allows corporate directors to get a better nights sleep knowing that they may not face the various penalties that heretofore existed for non-compliance with this act.

I won't go into all of the details because Senator Miller has ably summarized the other changes that this bill makes. The only

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criticism that I have heard of the bill is that it is going to increase the cost to some extent for industry and employers, because of a relatively small increase in the specifics, as they are called, that is an increase in benefits for partial disability for specific injuries.

However, Connecticut is still far in the lead in these areas of specifics. I think that this will be not any undue burden for industry. It brings all of these specifics into better balance and places Connecticut among the leaders in this field, but certainly it doesn't mean that we are the highest as far as the allowances, the awards we allow, for specific injuries to arm, leg, hand, foot or eye. I feel that if industry can continue to have these accident prevention programs in their plant as they have been in the past, they can cut down injuries to a point where the premiums in the future may well be lower rather than actually higher than the Workmen's Compensation Rates.

Along with Senator Miller, I too would like to urge the unanimous passage of this monumental piece of work.

THE CHAIR:

Are there further remarks? Senator Miller of the 13th district.

SENATOR MILLER:

Mr. President, I would like to point out that as far as the baby sitters and the workers around the home, it was never the intent of the 1959 legislators to include them in the bill. It was brought out by, for instance, Mr. Alsop who was at one time a candidate for Governor of this State, he was one of those that

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brought it out that no Workmen's Compensation Commissioner ever made a ruling that they were included, and I still don't think they were.

I agree with the Senator from the 31st that we were in the forefront on this bill. It was introduced by the Democratic Party in 1913 and was signed by a Democratic Governor that same year.

THE CHAIR:

Any further remarks? If not, the question is on acceptance of the committees favorable report and passage of the bill as amended by House Amendment Schedule "A". Those in favor will signify by saying "aye". Opposed. The bill is passed.

THE CLERK:

Cal. No. 2066. File Nos. 1251 and 1382. House Bill No. 2778.
An Act concerning the Publication of a Revision of the Connecticut Practice Book. (As amended by House Amendment Schedule "A".)

THE CHAIR:

Senator Ferland of the 28th district.

SENATOR FERLAND:

Mr. President, I move for acceptance of the committees favorable report and passage of the bill.

THE CHAIR:

Care to remark on House Amendment Schedule "A"?

SENATOR FERLAND:

Mr. President, this act appropriates \$55,000 to have the Connecticut Practise Book printed, when the Judges of the Superior Court have prepared and filed with the commission on legal pub-

JOINT
STANDING
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HEARING

LABOR

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ASSEMBLY
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LABOR

MONDAY

MARCH 20, 1961

Anthony Miller, Chairman
presiding

Members present: Senator Miller

Representatives: Earle, Mulreed, Green,,
Hemingway, Rand, Borzani, Snay, Booth,
Huber, Whelen, Saglio, Lowell, Jr.,
Stearns, McGee, Jr., Sebastian, Rourke,
Badolato and Zanobi

Sen. Miller: This Hearing is now in session. Are there any members of the General Assembly that wish to speak on any of these Bills? Mr. Patterson?

Rep. Patterson: Mr. Chairman, Members of the Committee, I am Representative Patterson from Old Lyme, Connecticut and I would like to speak on House Bill No. 2391 (Rep. Rand) REVISING THE WORKMEN'S COMPENSATION LAW. Before I address my remarks to the Committee, I would just like to say to the Committee, that I have been told by many people who have lived through this Bill, which is a reworking of the entire Workmen's Compensation Act, that we owe a debt of gratitude to Representative Rand of your Committee, who put in many hours of effort on this and who has come up with a splendid job of whatever we may think of the substitute provisions of the Bill.

I would like to address my remarks, Mr. Chairman, principally to two of the items in the Bill. First of all, the section beginning at the bottom of page 2 and carrying over onto page 3, which deals with the problem, somewhat up in the air today, let us say, concerning the baby sitter, or the part time domestic employee. And I think the solution to that problem proposed in this Bill, is a reasonable and proper one, which your Committee ought to consider very seriously. The baby sitter would, so far as it's possible to do in Legislation, be excluded from the provisions of the Act, the part time domestic employee, that is the inside employee we might call her, who is employed for less than 26 hours in any one week, is excluded from the Act, and the yard man, or part time gardener is excluded in effect, if he works for you for only one day per week. I think these are proper provisions, I don't think we need to clutter up our Workmen's

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Rep. Patterson (continuing): Compensation Act, or procedures with complete protection for that type of employment.

My second point that I would address myself to, is the extension of coverage to the single employee, and here I must differ with Representative Rand. Two years ago, we went, as many of you will remember, to coverage for two or more employees, and I think perhaps until we've had more experience with that, that's where we ought to stop. Extension to the single employee presents many complications and problems, maybe of less benefit to the single employee than cost in terms of employment and cost to the small business man. And so I would urge the Committee to listen to the Testimony on that subject today with the thought in mind, that however meritorious and principle the extension to one employee may be, there are real hazards and real problems. And I would suggest that until we've had further experience with the operation of the Act that was amended two years ago, we ought to wait and see.

Thank you, very much, Mr. Chairman.

Sen. Miller: Thank you. Are there any other Members of the General Assembly that wish to speak on any of these Bills? If not, we're going to take and hear the proponents of the Bills on the side of the employee first, depending on how much time they take, but I think two hours should be enough, so that we'll listen to them until ten after twelve and then break for lunch and start again at 1:00. We'll hear the proponents.

Mr. Baker: Mr. Chairman, my name is Daniel Baker, I am here representing the Connecticut State Federation A.F.L.C.I.O. I propose to speak on all of the Bills, and hence, I fear, will have to burden the Committee at some length. I should like first to take up Senator Miller's Bill, which bears the number 653.

S. B. No. 653 (Sen. Miller) REVISING THE WORKMEN'S COMPENSATION LAW.

This Bill revises the present statutes in several
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Mr. Andrews (Continuing): my remarks, gentlemen, I hope you will forgive me.

I will now turn to the material and I'm going to be much more general than the preceding speakers. In the first place, having worked in your position, I recognize that the ultimate probably will be a Committee Bill, and it will be somewhere between Senate Bill 653 and House Bill 2391. (Rep. Rand) REVISING THE WORKMEN'S COMPENSATION LAW. Now, you might have noticed that when you asked for a standing vote on who is opposed to 653, nobody stood up on this direct side. The reason for it is obvious, because there are some good Sections in 653, so how can you categorically stand up and oppose something which is partially good? And, I think, you will find out from other speakers in detail, which parts we consider good.

As far as 2391 is concerned, I think the intent of this Bill is extremely good. Unfortunately, there is a technical matter which raises a question in our mind as to accepting it, and that is; the matter of reference to precedent cases in the Statute, Court cases in the past, and I think this is a technical question upon which somebody else will comment on, but I wish you'd bear that question in mind. In general, in 2391, there are many sections which we would favor. As for example, on coverage. I think, as far as coverage is concerned, many of our company officials, I'm talking about the Naugatuck Valley, were considerably concerned and worried over this question of the definition of part-time, or baby sitter question. Now, I'm happy to note, that in several Bills, attempts have been made to correct this thing, to clarify it, because I think I'm aware of what your intent was in 1959. We would not necessarily take a position as to whether it should be 16 hours a week, or 26 hours a week, but I would remind you, respectfully, that the Legislative Council, a bipartisan organization, as you know, has gone on record as recommending 26 hours as the dependantive point. In general, we would take no position on coverage, other than to respectfully request that this be clarified, so that people don't come to me and say, "I have a baby sitter three days a week. Do I have to buy Workmen's Compensation Insurance?"

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Mr. Andrews (Continuing): On the general question of specific awards, I think, it can be safely said, that we have reasonably comparable benefits in Connecticut, in general our Law is one of the best in the country. And, in connection with this question of the specific amount being increased, it should be remembered that whenever the maximum goes up, as it has in the past; be specific and let me give you an example: if the maximum goes up \$5.00 for the loss of a master hand of 242 weeks (inaudible) over the years, except for the master hand, which was changed in 1957. I would submit this as a suggestion for your consideration; every change has brought with it a change in the maximum amount on the specifics. The specific schedule is fair and adequate in comparison to other States, we therefore, take the position that there should be no change in the specifics at this time. As to the question, a highly debatable question, I have my own, strangely enough, ideas that have persisted since 1953, but I go further than this position in pointing out, that if you set out a specific for backs and this is a question which I don't profess to know the answer, are you opening the door for back cases coming in and claiming proportionate payments against the four hundred, much in the same manner that scaring took place? I think that you should look at this one, pretty carefully, and would respectfully submit that you might get some counsel from the Commissioners, or even from doctors in this particular instance.

Now, again on the subject of the maximum, I would say this; that while we still, and some of you will recall that a couple of minor weak voices were raised in 1959 in the Legislature against the adoption of this percentage of production wage and we still oppose the principle, feel that a flat maximum is much better because it gives the Legislature a chance to look at it every two years, we would go along with the proposition in House Bill 2615 or in 2391, ✓

H. B. No. 2615 ✓ (Rep. Prout) TECHNICAL AMENDMENTS OF THE WORKMEN'S COMPENSATION ACT.

H. B. No. 2391 ✓ (Rep. Rand) REVISING THE WORKMEN'S COMPENSATION LAW.

LABOR

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Mr. Nelligan (Continuing): mind. And we sincerely hope that the Gentlemen of the Committee will also do this.

There is one point that I think needs some clarification, and that's in regard to Section 47 of S. B. No 653, the last line which refers to congenital causes. Congenital causes, it is my understanding in talking to several medical men, could include heart trouble, tuberculosis and other types of diseases, which would not be associated with employment. And we think that the Committee should study that very, very thoroughly before including that language in the Bill.

In regard to H. B. No. 2391,✓

H. B. No. 2391✓(Rep. Rand) REVISING THE WORKMEN'S COMPENSATION LAW.

there's one point in Section 10 where the word is changed from "occupational illness" to "occupation disease". We think that should be defined exactly. What the reasons, I for one am not aware, and I think that should be studied to see why that was changed. We also object in 2391✓to the waiver provision. We think that waivers are a good thing and they should be continued in the status quo.

H. B. 3085,✓

H. B. No. 3085✓(Rep. Earle) WORKMEN'S COMPENSATION ACT.

meets our general approval, we think this Bill eliminates some of the inconsistencies and some of the trouble we have had with the Workmen's Compensation Act adopted in 1959. And we would urge that the Committee report favorably on 3085.✓

In regard to H. B. 3379,✓

H. B. No. 3379✓(Rep. Prout) CLARIFYING THE RIGHTS OF SUCCESSOR EMPLOYERS IN RESPECT TO WAIVER EXECUTED UNDER THE WORKMEN'S COMPENSATION ACT BY EMPLOYEES HAVING PHYSICAL DEFECTS.

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Mr. Jankura (Continuing): can go up to \$57.00 -- Illinois, it's \$51.00 -- Indiana, another city in which we operate, its 60%, a maximum of \$39.00 -- California, where we also operate, its 61 and 3/4% and a maximum of \$52.50 -- Ohio, where we have a new plant, just opening up, it's 66 and 2/3rds, with a maximum of \$49.00 and there, it's the State Fund. You cannot become self-insured there. Now, in Oregon, which is the highest in the United States, they have \$63.46, but that amount reduces if there are less than six children. So we come right to the point where we are today. I think that in Connecticut, we are much ahead because there is no limit under the present Law. It is 52 this year, next year the Commissioner may make it 55. Thank you.

Sen. Miller: Thank you.

Mr. Lemaire: Mr. Chairman, Gentlemen of the Committee, my name is Leon Lemaire and I speak for the Manufacturers Association of Connecticut.

I will open my remarks on an affirmative basis. We are highly in favor of most of the provisions of Representative Rand's Bill -- No. 2391 REVISING THE WORKMEN'S COMPENSATION LAW, with a few exceptions which I will read.

First of all, in changing the term "occupational disease" to "occupational injury", excuse me, "illness", there is a danger that the Courts would be in a position of not knowing exactly what the term meant. Now, the word "disease" has been judicially defined and we feel, that it should be retained in the Law, and there seems to be no reason, in my mind, at least, for a change in the terms to the word "illness".

The second object which we have to Representative Rand's Bill, is Section 30 -- payment after five years from the date of the original award to be revised by one-half the difference between the award and the current maximum. We are opposed to any type of provision of this kind, which would increase the benefit payment. After the time that an award has been issued, I think that the problem has been well stated by previous speakers and I won't take any more of your time up on it, except to say again we are opposed to this section.

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Mr. Lemaire (Continuing): In general, Representative Rand's Bill is good, but we caution you not to rush in too hastily, for fear that you will upset the prior judicial decisions which have been made in this field. If there are any changes at all of paragraphs and sections numbers, this would not be too objectionable, but you must be very careful that the wording which comes out of any Bill that you might come up with, that the wording is not changed very drastically -- otherwise you are throwing case law out the window, and this will result in a tremendous amount of litigation.

We would also, like to go on record as being highly in favor of House Bill 2615 (Rep. Prout) TECHNICAL AMENDMENTS OF THE WORKMEN'S COMPENSATION ACT, with a few exceptions.

Section one -- no change in the maximum until the average weekly wage exceeds or equals \$5.00. We believe, that this constant change in the rate from year to year, results in an unnecessary amount of time and labor spent and that a limitation be placed upon the amount of change, before a change in the maximum rate would be made.

Allowing twenty days to file disclaimers -- we feel, that there should be no disclaimer or provision in the Law. That point has been sufficiently covered by other speakers and I won't take up your time on that one.

Representative Rand's Bill, again, House Bill 2616 - NOTICE OF PROPOSED WORKMEN'S COMPENSATION RATES, which would permit the examination of workmen's compensation rates, prior to the effective date. We feel, that under the present Law, sufficient protection is not given to the very people who are paying and footing this Bill. Under the present Law, the Insurance Companies submit their schedule of rates, if the Commission doesn't act, I believe, they become effective in five days. It is sufficiently difficult for employers who would contest these rates, to get them over turned once they are put into effect. We believe, that it is only just, that those people who are going to foot the Bill, have a right to look at these rates and check them out for their soundness, to

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Mr. Lemaire (Continuing): whenever the cost of living, or the average production wage increases. There is no reason in the world, at this time, why we should have to increase any specific item. Our benefits compare favorably with all of the other States, there are certain areas in which other States pay more than we do and we pay more than in other areas, but overall our Laws are quite favorable. I'm going to read just a couple of citations: California, maximum a week is \$52.50 -- Illinois \$51.00 -- Massachusetts \$45.00 -- New Hampshire \$40.00 -- Iowa \$49.00 -- Pennsylvania \$42.50 -- New York \$45.00 -- and in Rhode Island \$32.00.

In computing average wage of an employee, page 19, section 17 of the Bill, would permit the use of departmental hours, if the employee worked less. The whole intent and purpose of the Workmen's Compensation Law is to provide benefits based on a man's earning ability. Not the departmental earning ability and not the plant earning ability. It defeats the entire purpose of the Law, by including any such provision and we are highly opposed to such a change.

Section (inaudible) Now, I'm not sure what you are trying to do here, but if it means this, if it means that if a man -- I'll use the example of a man driving an automobile -- if a man driving a '52 Ford wraps it up and he buys a Cadillac, that's the cost of replacement and if it's the value of replacement, then certainly the figure is very (inaudible) has been identified, has been judiciously determined and there seems to be no logical reason in the world, in my book, to change this to the word cost. Cost has another meaning entirely and if cost of replacement means, as I say, replacing a Cadillac for a Ford, I say this is certainly a bad provision.

We would support House Bill No. 2391 (Rep. Rand) REVISING THE WORKMEN'S COMPENSATION LAW, with respect to payment of wages and that is the guaranteed rate, or day rate, whichever is higher and this is a logical one and this figure is always predetermined.

Section 22, as I see it, it would deny the employer credit for rehabilitation payments made before the war. Now, I don't exactly know what the intent is. If there is a settlement, or a decision rendered, any payments that an employer has made prior to this should certainly be taken into consideration.

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Mr. Lemaire (Continuing): Section 24, page 24, this department, it seems I guess, we do not have enough reports, we have to be subjected to more. All the information which is given in these reports is forwarded on to the Labor Department, I don't understand why you should want to place on the employee the duty of filling out another form. It seems to serve no useful purpose and if its only purpose is to help some other department of the State, to fix up figures, or I don't know what they want it for, but if this is the only reason, then I say it's unjustified. The information is available, a copy, as I say, is forwarded on to the Labor Commissioner and there seems to be no reason for it now, taking away this protection. Each failure to report is a separate offense and the President and Directors are liable. Again a Director is suddenly liable again for failure to make a report.

Section 25 permits the legal representatives to make claims which are now confined to dependents. I'm not sure, again, what the purpose of this is, but of course, we're opposed to it. If this simply expedites matters in the case of a death, then perhaps it's alright.

Section 25 again. An employer must file a disclaimer within 10 days of when he knows of the existence of circumstances constituting the basis for a claim, or he is conclusively presumed to have waived his right and is forever, thereafter, barred from contesting. This further jeopardizes the position and we say you are going even further in the wrong direction here. Not only are you assuming that he actually knows about it, but if he should have known, what is this supposed to mean? He should have known of the existence of circumstances? This is very objectionable to penalize the man, even if he doesn't know, what's he supposed to do? Send police escorts around his plant constantly, to check on injured employees? Suppose a man gets hurt on a job and he doesn't go to sick bay, he doesn't report to the medical office, what do you do? How are you going to check on him? Should a supervisor, his foreman, who maybe happened to be up in the front office, at the time, have

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Mr. Lemaire (Continuing): known about it? I say eliminate the entire disclaimer provision. It serves no useful purpose, it's just a harassing piece of Legislation.

Section 30, page 29 would eliminate the need for a finding. Now, these findings of fact, are the very basis upon which the decision is rendered and if you're going to say that all you have to do now, because you don't care to appeal the case now, is just simply take the decision that says a man gets so many weeks, then I say, what's going to happen several years from the date of this award, if a contest occurs? You have no basis, no findings of fact -- which means that a Hearing Officer has to go through the entire record again, has to listen to new testimony and I say this is unnecessary. I don't think the Commissioners are so burdened that they can't have findings of fact in any case, where they render a decision. It's my understanding that most of these cases are settled anyway. There is no need for findings at all.

The next section, of course, changes the word from "finding" to "decision" and this is objectionable.

Section 32 -- requiring the payment within 10 days of an award of voluntary agreement. I don't know if this is any hardship, but again I don't see any reason for it. I think most payments are made within that ten day period without any trouble at all.

Section 37 remove employees creating civil liability for failure to conform to any provision in this chapter and limit this to (inaudible) to secure compensation. This is a good section, the limitation to secure compensation is certainly not objectionable.

Section 37 allowing the election to sue within six months of first manifestation of a symptom. As I understand the Workmen's Compensation Law, the purpose of this is to avoid litigation. This would seem to me to increase the possibility.

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Mr. Quandt (Continuing); for time lost from the job, payment at the same rate which he would have earned. Simply, Gentlemen, it would be a difficult thing to determine. We would much prefer H. B. 2391, ✓

H. B. 2391 ✓ (Rep. Rand) REVISING THE WORKMEN'S COMPENSATION LAW.

because the word guaranteed rate, or day work rates do have meaning in Union Contract situations. We know what that rate is.

We are also registering the Committee as being in favor of House Bill 4451 ✓ (Not Listed) which eliminates the notice of the disclaimer.

H. B. 2391, ✓ the Rand Bill, in general.

H. B. 2615, ✓

H. B. 2615 ✓ (Rep. Prout) TECHNICAL AMENDMENTS OF THE WORKMEN'S COMPENSATION ACT.

has been adequately covered on the subject of limiting the liability of the directors.

Thank you very much, Mr. Chairman.

Sen. Miller: Thank you.

Dr. Johnston: Re:

S. B. No. 846 ✓ (Sen. Miller) CLARIFYING THE INTENT OF SECTION 7-433 OF THE GENERAL STATUTES.

I, J. H. Johnston, M.D., doctor of medicine representing the Committee on Industrial Health of the Connecticut State Medical Society present these views outlined below as the consensus of medical opinion of this committee.

We do not feel that a presumption that heart disease and hypertension developing in any work group can be concluded to arise out of that particular occupation. Reliable medical investigations have successfully demonstrated that heart disease has many etiological factors; such as,

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Dr. Johnston (Continuing): heredity, body build and the normal physiological processes of aging. Type of work performed is not one of the causes. We feel that to include such a presumption in the Workmen's Compensation Act would change the basic concept of Workmen's Compensation, which is at present limited to those illnesses and injuries "arising out of and in the course of employment".

We'd also like to go on record as being opposed to House Bills 3709, 4052 and 2098.

H. B. 3709 (Rep. Cole) ACCESS TO MEDICAL REPORTS IN WORKMEN'S COMPENSATION CASES.

H. B. No. 4052 (Rep. Hogan) FURNISHING MEDICAL REPORTS TO INJURED EMPLOYEES FOR WORKMEN'S COMPENSATION PURPOSES.

H. B. No. 2098 (Rep. Casey) ACCESS TO MEDICAL REPORTS IN WORKMEN'S COMPENSATION CASES.

We are already on record as giving patients all pertinent health findings, except when such disclosures would have an adverse effect upon his health and well being. We feel, that giving any information that might have an adverse effect, would be doom to an impatient heart.

I would like to submit these statements.

Sen. Miller: Thank you.

Mr. Avery: Mr. Chairman, Members of the Committee, I am Arnold W. Avery - Gerald Johnson Woolen Company in Stafford Springs, Connecticut.

I would like to go on record in opposition to S. B. No. 653 (Sen. Miller) REVISING THE WORKMEN'S COMPENSATION LAW and in particular the following sections, which I will cover very briefly, because they have already been covered in detail.

Section 7A - the Chairman may appoint any lawyer or Hearing Officer with same power as Commissioner.

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Mr. Avery (Continuing): Section 12 - requires giving employee or attorney copies of all medical reports. I believe that could be harmful to the person involved.

Section 15 - removes limitations and increases all specifics, it has been pointed out previously, today, that the present specifics are adequate and compare favorably with other States.

Section 16 - increases maximum from 55% to 60% of average production wage. It seems to compound the increase in cost.

Section 18 - changes the value of replacement to cost of replacement, I think that has been covered very completely by previous testimony.

Section 22 - would not give employer credit for rehabilitation payments made before an award. This exposes the employer to double payments.

Section 24 - would eliminate employers protection from making reports to labor or other departments.

Section 30 - no finding required unless appeal taken. A finding in a formal hearing is desirable and has so been pointed out in previous testimony.

I also, wish to register in favor of the following Bills.

H. B. No. 2391 ✓ (Rep. Rand) REVISING THE WORKMEN'S COMPENSATION LAW,

Section 51 provides waivers continue effective when a company is merged or purchased.

Section 75 - limits combined payments from employer and second injury fund for partial incapacity to 780.

H. B. No. 2616 ✓ (Rep. Rand) NOTICE OF PROPOSED WORKMEN'S COMPENSATION RATES.

Permits examination of Workmen's Compensation rates, prior to effective date.