

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST SPECIAL SESSION
18th Legislative Day
Friday, May 2, 1997

The House met according to adjournment and was called to order by the Speaker Pro Tem, Rep. DONNELLY of Presque Isle. Prayer by Father Lionel G. Chouinard, St. Augustine Church, Augusta.
Pledge of Allegiance.
The Journal of yesterday was read and approved.

SENATE PAPERS

The following Communication: (H.C. 210)
MAINE STATE SENATE
State House Station 3
Augusta, Maine 04333
April 30, 1997

The Honorable Elizabeth H. Mitchell
Speaker of the House
118th Maine Legislature
2 State House Station
Augusta, Maine 04333
Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Criminal Justice, the nomination of Martin A. Magnusson of Thomaston for appointment as the Commissioner of the Department of Corrections.

Thank you for your attention to this matter.
Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 211)
MAINE STATE SENATE
State House Station 3
Augusta, Maine 04333
May 1, 1997

The Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its previous action whereby it Accepted the Majority Ought Not To Pass Report from the Committee on Taxation on Bill "An Act to Require Public Utilities to Pay Excise Tax on Motor Vehicles to the Town in Which the Motor Vehicle is Permanently Stationed" (H.P. 82) (L.D. 107).

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

Was read and ordered placed on file.

Bill "An Act to Establish the Maine Economic Improvement Fund" (S.P. 637) (L.D. 1854)

Came from the Senate, referred to the Committee on **Business and Economic Development** and Ordered Printed.

Was referred to the Committee on **Business and Economic Development** in concurrence.

Bill "An Act to Exempt from State Income Tax Previously Taxed Contributions to an Individual Retirement Account" (S.P. 636) (L.D. 1853)

Came from the Senate, referred to the Committee on **Taxation** and Ordered Printed.

Was referred to the Committee on **Taxation** in concurrence.

Divided Report

Majority Report of the Committee on **Inland Fisheries and Wildlife** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-166) on Bill "An Act to Repeal the Requirement That All-terrain Vehicles Be Equipped with Brake Lights" (S.P. 101) (L.D. 380)

Signed:

Senators: KILKELLY of Lincoln
RUHLIN of Penobscot
HALL of Piscataquis

Representatives: PAUL of Sanford
CHICK of Lebanon
DUNLAP of Old Town
TRUE of Fryeburg
USHER of Westbrook
GOODWIN of Pembroke
CROSS of Dover-Foxcroft
PERKINS of Penobscot

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

Signed:

Representatives: UNDERWOOD of Oxford
CLARK of Millinocket

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-166).

Was read.

On motion of Representative PAUL of Sanford the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-166) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 5, 1997.

Non-Concurrent Matter

Bill "An Act to Require Certain Employees of Health Care Facilities to Wear Identification Badges" (S.P. 288) (L.D. 939) (C. "A" S-89) on which the Bill and accompanying papers were indefinitely postponed in the House on April 30, 1997.

Came from the Senate with that Body having insisted on its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-89) and asked for a Committee of Conference in non-concurrence.

The House voted to Adhere.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

Roger Alexander, of Topsham, for his perseverance over the past 13 years to gain United States citizenship. He was sworn in as an American citizen recently thanks to his dedication and desire, and thanks to more than a dozen attorneys who gave their time at no cost to make his citizenship official; (HLS 379) by

Representative TRIPP of Topsham. (Cosponsor: Senator SMALL of Sagadahoc)

On objection of Representative TRIPP of Topsham, was removed from the Special Sentiment Calendar.

On motion of Representative SAXL of Portland, tabled unassigned pending passage.

John Christopher Roberts, of Boy Scout Troop #213 in Damariscotta, an honor student at Lincoln Academy, who has attained the high rank and distinction of Eagle Scout, and in extending our congratulations and best wishes to him on this achievement; (HLS 382) by Representative PIEH of Bremen. (Cosponsor: Senator KILKELLY of Lincoln)

On objection of Representative PIEH of Bremen, was removed from the Special Sentiment Calendar.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to add one comment about John and his family. He comes from a long line of journalists and his family founded, owns and publishes the *Lincoln County News*, which is the only weekly newspaper in our county that is owned within the county. It is a very good paper and I encourage you to read it at every chance. I personally congratulate John.

Was read and passed and sent up for concurrence.

Matthew Fowle, of Boy Scout Troop #105 in Plymouth, who is a 9th-grade student at Nokomis Regional High School, on attaining the high rank and distinction of Eagle Scout, and in extending our congratulations and best wishes to him; (HLS 383) by Representative STEDMAN of Hartland. (Cosponsor: Senator MITCHELL of Penobscot)

On objection of Representative STEDMAN of Hartland, was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending passage and specially assigned for Tuesday, May 6, 1997.

REPORTS OF COMMITTEES

Refer to the Committee on Judiciary

Representative DRISCOLL from the Committee on **Transportation** on Bill "An Act Regarding Terminal Rental Adjustment Clauses Vehicle Leasing" (H.P. 646) (L.D. 899) reporting that it be referred to the Committee on **Judiciary**.

Report was read and accepted and the Bill referred to the Committee on **Judiciary** and sent up for concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-293) on Bill "An Act to Allow County Commissioners to Serve on the Maine Land Use Regulation Commission" (EMERGENCY) (H.P. 9) (L.D. 6)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives: AHEARNE of Madawaska
BUMPS of China
FISK of Falmouth
BAGLEY of Machias
LEMKE of Westbrook

GIERINGER of Portland
SANBORN of Alton
DUTREMBLE of Biddeford

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

Signed:

Representative: GERRY of Auburn
Was read.

On motion of Representative AHEARNE of Madawaska the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-293) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 5, 1997.

Divided Report

Majority Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-276) on Bill "An Act to Waive the Fees for the Removal and Transportation of Certain Hazardous Waste" (H.P. 465) (L.D. 636)

Signed:

Senators: NUTTING of Androscoggin
BUTLAND of Cumberland
Representatives: ROWE of Portland
DEXTER of Kingfield
COWGER of Hallowell
JONES of Greenville
McKEE of Wayne
FOSTER of Gray
NICKERSON of Turner

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

Signed:

Senator: TREAT of Kennebec
Representatives: MERES of Norridgewock
SHIAH of Bowdoinham
BULL of Freeport

Was read.

Representative ROWE of Portland moved that the House accept the Majority "**Ought to Pass**" as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Monday, May 5, 1997.

Divided Report

Majority Report of the Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-291) on Bill "An Act to Permit the Public Utilities Commission to Suspend Rate Regulation of Certain Telephone Utilities" (H.P. 544) (L.D. 735)

Signed:

Senators: CAREY of Kennebec
CLEVELAND of Androscoggin
Representatives: JONES of Bar Harbor
KONTOS of Windham
USHER of Westbrook
O'NEAL of Limestone
LaVERDIERE of Wilton
COLWELL of Gardiner
BERRY of Belmont
TAYLOR of Cumberland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-292) on same Bill.

Signed:
Senator: HARRIMAN of Cumberland
Representatives: VEDRAL of Buxton
JOY of Crystal

Was read.

Representative JONES of Bar Harbor moved that the House accept the Majority "**Ought to Pass**" as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Monday, May 5, 1997.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-295) on Bill "An Act to Amend the Maine Civil Legal Services Fund" (H.P. 739) (L.D. 1003)

Signed:
Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin
Representatives: THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
JABAR of Waterville
MAILHOT of Lewiston
POWERS of Rockport
PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton

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

Signed:
Representative: WATERHOUSE of Bridgton
Was read.

On motion of Representative THOMPSON of Naples the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-295) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 5, 1997.

Divided Report

Majority Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-275) on Bill "An Act Requiring Progress Reports for Mapping Significant Wildlife Habitat" (H.P. 1088) (L.D. 1531)

Signed:
Senators: TREAT of Kennebec
NUTTING of Androscoggin
BUTLAND of Cumberland
Representatives: ROWE of Portland
SHIAH of Bowdoinham
BULL of Freeport
COWGER of Hallowell
JONES of Greenville
McKEE of Wayne
DEXTER of Kingfield
MERES of Norridgewock

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

Signed:
Representatives: NICKERSON of Turner
FOSTER of Gray

Was read.

On motion of Representative ROWE of Portland the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-275) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 5, 1997.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 173) (L.D. 502) Bill "An Act to Require Fair Compensation for Ratepayer Assets Used by a Subsidiary or an Affiliate of a Utility" Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-161)

(S.P. 208) (L.D. 667) Bill "An Act to Create and Incorporate the Jackman Utility District by Merger of the Jackman Water District and the Jackman Sewer District" (EMERGENCY) Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-165)

(S.P. 243) (L.D. 812) Bill "An Act to Require the Public Utilities Commission to Align Telecommunications Carrier Access Rates with Costs to Foster Economic Development and Competition throughout the State" Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-162)

(S.P. 352) (L.D. 1171) Bill "An Act to Better Inform Car Repair Customers" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-160)

(S.P. 409) (L.D. 1330) Bill "An Act to Ensure Adequate Review of Maintenance Dredging" Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-155)

(S.P. 423) (L.D. 1344) Bill "An Act to Create the Mt. Blue Standard Water District" (EMERGENCY) Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-164)

(S.P. 435) (L.D. 1381) Bill "An Act to Provide Training in Sudden Infant Death Syndrome to Emergency Response Personnel" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-154)

(S.P. 465) (L.D. 1437) Resolve, to Establish Regional Service Centers Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-159)

(S.P. 500) (L.D. 1562) Bill "An Act to Amend Professional Licensing Boards Laws" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-158)

(S.P. 514) (L.D. 1598) Bill "An Act to Provide for Enforcement of the Laws Regarding the Protection of Underground Utility Facilities" Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-163)

(H.P. 388) (L.D. 533) Bill "An Act to Ensure Public Safety and Proper Allocation of Liability for Gas Pipelines" Committee on

Judiciary reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-298)

(H.P. 439) (L.D. 589) Bill "An Act to Amend the Mobile Home Park Laws Regarding Sales of Homes" Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-299)

(H.P. 486) (L.D. 657) Resolve, to Establish the Commission to Examine Rate Setting and the Financing of Long-term Care Facilities (EMERGENCY) Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-301)

(H.P. 508) (L.D. 699) Bill "An Act to Clarify the General Powers of Attorney" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-297)

(H.P. 602) (L.D. 827) Bill "An Act to Authorize Corporate Officers to Represent Their Corporation in Certain Civil Actions in District Court" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-296)

(H.P. 629) (L.D. 854) Bill "An Act Regarding the Obligation of the State to Fund Adult Education" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-306)

(H.P. 632) (L.D. 857) Resolve, to Determine the Appropriate Tuition Rate for Public High School Students Who Live in a Municipality without a High School Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-305)

(H.P. 738) (L.D. 1002) Bill "An Act Requiring the Department of Human Services to Provide Custodial History of Children in the Care of the Department" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-303)

(H.P. 767) (L.D. 1044) Bill "An Act to Clarify Requirements Pertaining to the Maine Certificate of Need Act" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-302)

(H.P. 828) (L.D. 1133) Resolve, to Ensure Quality Care to Residents of Nursing Facilities through the Establishment of a Task Force on Minimum Staffing (EMERGENCY) Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-304)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 5, 1997 under the listing of Second Day.

CONSENT CALENDAR

Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 387) (L.D. 1272) Bill "An Act to Ensure Enforcement of Protection from Abuse Laws"

(S.P. 74) (L.D. 213) Bill "An Act to Create the Position of Director of Econometric Research within the Bureau of Taxation" (C. "A" S-141)

(S.P. 126) (L.D. 405) Bill "An Act to Create an Historic Preservation Tax Credit" (C. "A" S-139)

(S.P. 183) (L.D. 601) Bill "An Act to Provide Municipal Notification of Utility Services" (C. "A" S-146)

(S.P. 187) (L.D. 605) Bill "An Act to Provide for an Additional Staff Member for the Business Enterprise Program" (C. "A" S-145)

(S.P. 210) (L.D. 669) Bill "An Act Relating to Value of Property Held by Portland Yacht Club" (C. "A" S-149)

(S.P. 278) (L.D. 886) Bill "An Act Concerning Trust Investments by Trustees in Affiliated Securities and Bonds" (C. "A" S-151)

(S.P. 293) (L.D. 944) Resolve, Establishing a Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities (C. "A" S-152)

(S.P. 295) (L.D. 946) Bill "An Act to Protect the Confidentiality of Financial Records" (C. "A" S-148)

(S.P. 303) (L.D. 1011) Bill "An Act to Ensure the Accurate Collection of Excise Tax on New Motor Vehicles" (C. "A" S-140)

(S.P. 401) (L.D. 1296) Bill "An Act to Amend the Maine Probate Code to Eliminate Interest on Claims of Creditors of Insolvent Estates" (C. "A" S-150)

(H.P. 161) (L.D. 203) Bill "An Act Regarding Trap-tending Requirements"

(H.P. 518) (L.D. 709) Bill "An Act to Define the Term 'Occupational Therapy Practitioner' in the Laws Regulating Professions and Occupations" (C. "A" H-287)

(H.P. 538) (L.D. 729) Bill "An Act to Amend the Maine Pharmacy Act" (C. "A" H-288)

(H.P. 769) (L.D. 1046) Resolve, to Study the Implementation of a Statewide Criminal Record Check of Home Care Providers to Ensure Safety for Citizens Receiving Care in Community-based Settings (C. "A" H-284)

(H.P. 772) (L.D. 1049) Bill "An Act to Amend the Real Estate Brokerage Laws" (C. "A" H-289)

(H.P. 778) (L.D. 1066) Bill "An Act to Amend the Prehearing Settlement Process" (C. "A" H-286)

(H.P. 831) (L.D. 1136) Resolve, Regarding Legislative Review of Chapter 378, Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Land and Water Quality (EMERGENCY) (C. "A" H-278)

(H.P. 897) (L.D. 1214) Bill "An Act to Provide a Warranty for Assistive Devices for Persons with Disabilities" (C. "A" H-290)

(H.P. 909) (L.D. 1252) Resolve, Regarding Legislative Review of Chapter 380: Planning Permit, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Land and Water Quality (EMERGENCY) (C. "A" H-277)

(H.P. 910) (L.D. 1253) Bill "An Act to Amend the Charter of the Winterport Sewer District" (C. "A" H-280)

(H.P. 928) (L.D. 1275) Bill "An Act to Allow a Separate, Nonsmoking Area for a Beano or Bingo Game" (C. "A" H-285)

(H.P. 1112) (L.D. 1555) Bill "An Act to Create the River Flow Advisory Commission within the Department of Defense and Veterans' Services" (C. "A" H-279)

(H.P. 1151) (L.D. 1616) Bill "An Act to Amend the Laws Regulating Occupational Therapy Practice" (C. "A" H-282)

(H.P. 1171) (L.D. 1648) Bill "An Act to Increase Home Ownership" (Governor's Bill) (C. "A" H-281)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

BILLS IN THE SECOND READING

Bill "An Act to Create an Elder Abuse and Fraud Unit in the Department of the Attorney General" (H.P. 476) (L.D. 647)

As Amended

Bill "An Act to Change the Membership of the Lobster Advisory Council" (H.P. 536) (L.D. 727) (C. "A" H-274)

Bill "An Act to Increase Access to Education, Training and Employment for Displaced Homemakers" (S.P. 328) (L.D. 1106) (C. "A" S-142)

Were reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

ENACTORS

Emergency Mandate

An Act to Create the Oquossoc Standard Water District (S.P. 236) (L.D. 805) (C. "A" S-112)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 2 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Clarify the Definition of Qualified School for Telecommunications Network Purposes (H.P. 307) (L.D. 371)

An Act Requiring Qualified Investigation of Certain Truck-related and Bus-related Fatalities (H.P. 469) (L.D. 640) (C. "A" H-149)

An Act to Amend the Washington County Budget Advisory Committee (H.P. 515) (L.D. 706)

An Act to Amend the Revised Maine Securities Act (H.P. 717) (L.D. 981) (C. "A" H-212)

An Act to Require Law Enforcement Officers to Inform a Person Who Fails to Submit to a Blood Test about the Informed Consent Law (H.P. 777) (L.D. 1065)

An Act to Increase the Civil Penalty for Cruelty to Animals (H.P. 788) (L.D. 1076) (C. "A" H-214)

An Act to Amend Department of Defense and Veterans' Affairs Laws (S.P. 351) (L.D. 1170) (C. "A" S-114)

Resolve, to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Microenterprise Needs (H.P. 266) (L.D. 330)

Resolve, to Name the New Bangor-Brewer Replacement Bridge (H.P. 1142) (L.D. 1607)

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

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

Doctor of the Day, Allan Kuong, D.O., Freeport

An Act to Prohibit the Employment of Professional Strikebreakers (H.P. 88) (L.D. 113)

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

On motion of Representative SAXL of Portland, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Monday, May 5, 1997.

An Act to Regulate Body Piercing (H.P. 358) (L.D. 481) (C. "A" H-215)

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

On motion of Representative SAXL of Portland, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and later today assigned.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

Expression of Legislative sentiment recognizing Charles Buker, Eagle Scout (HLS 368)

TABLED - April 30, 1997 by Representative SNOWE-MELLO of Poland.

PENDING - Passage.

On motion of Representative SAXL of Portland, tabled unassigned pending passage.

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-239) - Committee on **Taxation** on Bill "An Act to Amend the Laws Regarding When a Merchant Must Remit Sales Tax to the State" (H.P. 315) (L.D. 437)

TABLED - April 30, 1997 by Representative TRIPP of Topsham.
PENDING - Motion of same Representative to accept the Majority "**Ought Not to Pass**" Report.

Subsequently, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (7) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" - Committee on **Transportation** on Bill "An Act Relating to Consumer Rental Vehicles" (H.P. 276) (L.D. 340)

TABLED - April 30, 1997 by Representative DRISCOLL of Calais.

PENDING - Motion of same Representative to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House. I would urge you to not to accept the Majority Report on this bill and move on the accept the Minority Report. I think it would serve all of you better unless the majority of your constituents own car rental companies. Basically, this bill is a consumer protection, or fairness bill, that I introduced in order to make clear that those of us and your constituents who rent cars for short-term rentals know that when they rent that car, the liability insurance is primarily covered by the car rental company who owns the car. From 1979 until 1991, that was clear in Maine statute. In other words, when you rented a car, you knew that the rental company had liability insurance on that car and that, in case of an accident, no matter whose fault it was, the car rental company's insurance was primarily used. Your own insurance would also be implicated if the auto rental company's insurance was not high enough.

In 1991, during a recodification of Title 29 this part of statute was changed or dropped out without any legislative debate in the committee or in any of the chambers. It is not clear what the procedure happened at that time, whether it was a mistake or a last minute amendment, but it really never saw the light of day in terms of any debate and after that date, it was not clear whose insurance was primary and it tended to be that those of us who rented cars our own insurance would be implicated immediately in the case of an accident, no matter whose fault it was or whether or not it was even a faulty mechanism on the vehicle that was at fault. Nonetheless, the primary liability would be those of us renting a car. I don't think many people were even aware of that. We are not talking about collision damage insurance. It is clear that if you want the rental companies insurance and collision damage to be covered, you have to pay extra for that. Liability coverage has been a gray area. Some states have their primary coverage being with the rental companies and some with the individuals. As I said, until 1991, Maine decided that the primary coverage had to be with the rental company.

In 1996, part of an omnibus bill was brought to the Transportation Committee seeking to put that back to the way it was prior to 1991 with primary coverage being for the rental company. The Transportation Committee at that time referred it to Banking and Insurance and it was late in the session and no decision was made. I introduced a bill to clarify the statute this time and it received a split report from the Transportation Committee with a very strong bipartisan minority sided in favor of passage of the bill. The Bureau of Motor Vehicles testified in favor of the bill as they had in 1996. Insurance companies favored this method of providing insurance. Basically, the only people who testified against the bill were a couple of car rental companies and their lobbyists. They have been working pretty hard on this bill in order not to have the primary burden be on them. I would submit that if the cost of their doing business in the state that their liability coverage be primary in this case.

It was brought up the complaint that it would raise their cost of doing business, but I will let you know that in 1991 when the car rental companies won in that case, in other words, that the liability went back to the consumer, there was no reduction of cost to people who rented cars. There was no proof that their costs, in fact, went up. I imagine that their costs are covered globally by insurance policies throughout the country that cover them all the same. What they might lose with this is the ability to charge another extra fee of \$8 or \$9 a day to make sure that their insurance covers it so that you are not afraid of your own being implicated in any kind of accident. They charge an extra fee called SLI, supplemental liability insurance, in many cases. This is a fee that when you read the instructions and realize that your own insurance might be at fault. You might be in the position of losing your insurance or having serious extra charges built up through an accident that might not be your fault. You are pretty inclined to take that extra fee and add it to the rest of the charges you pay when you rent the car. I think if it was clear that their insurance was primary, you would be less apt to pay those extra hidden fees of which there are many in car rentals. In any case, they have the insurance to cover these things. They just don't want it to be clear or they would rather have it in your lap if you rent a car.

I would ask you to continue to support Maine's basically proconsumer laws in many of these areas and support the Minority Report in on this bill. I don't think the car rental companies that testified against the bill have you or your constituents' best interests, or the interests of any great standards of fairness, at heart when they testified against this bill. They are basically looking out for their own interests. In one

small business, and I think in this case it is the businesses responsibility, to have primary coverage on the vehicle. I would ask you to side with the minority on this bill and vote against the prevailing motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Men and Women of the House. I rise today to urge you to support the Majority "Ought Not to Pass" of the Joint Standing Committee on Transportation. This bill passed 7 to 5 with two Senators, Republicans and Democrats both on board for the Majority "Ought Not to Pass." LD 340 seeks to change the current law and make the liability insurance for a car rental company the primary coverage when the driver of the rental car is at fault in an accident. This bill has nothing to do with what happens to a victim of an accident, nor does it have anything to do with the collision damage coverage, that comes into affect should you damage the rental car. As I said before, this bill would only come into play when the driver of the rental car is at fault in an accident. What usually happens in that situation is that the driver's policy contains a clause saying that this policy will be secondary to other policies. The rental car company's policy also contains the same clause. So, what happens?

Under current Maine law as determined by the Maine Supreme Court, both companies pay equally up to the limits of the lower coverage. Should the damages be greater than twice the limits of the lower policy, then the higher policy would pay the rest. Let me give you an example. Suppose the driver of the rental car gets in an accident and causes \$300,000 worth of damage to property or persons. Let's suppose the maximum coverage in that driver's policy was \$100,000 and the maximum coverage for the rental car company is \$350,000, which is, in fact, the minimum required under Maine law. In that situation both policies would pay \$100,000 and then the car rental companies coverage would pay the remaining \$100,000. For this bill to become law, the car rental companies policy would pay the entire \$300,000 and there would be no contribution from the driver's policy at all.

The Majority of the Transportation Committee felt that it would be fairer and better public policy to have the driver's policy contribute something to the victim. We thought that removing the responsibility would not encourage care on the part of the driver. We also thought it would probably drive up the cost of renting a car and hurting you in your pocketbook. As most of you know, renting a car is a pretty fast transaction. It would be difficult, if not impossible in Maine, for the car rental company to check on the driving record of every person who comes to rent a car. It is possible for an insurance agent to make that check when he sells the driver his policy. As you also know, the price of an automobile policy in Maine is, in most cases, dependent upon the driving record of the person applying for insurance. If this bill were to pass, car rental companies would likely have to pay more for insurance because they would have to base their rates entirely on the worst possible driver. Our primary reason, however, was that we felt it was fairer for the person at fault in an accident to share some of the responsibility for the damages caused.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House. We have operated in the state in a number of years and operated very well with the existing formula method of insuring our automobiles. I spent 10 years in the insurance business though part of my career and as Chair of Banking and

Insurance for two years. I have a fair understanding as to the problems created by adding another layer of costs to the business community. I urge you to accept the Majority "Ought Not to Pass." This will only add a cost if we reverse it and try to change the method that we are now operating under. Thank you.

Representative TAYLOR of Cumberland requested that the Clerk read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House. I would like to add a few counterpoints to some of the debate you have heard. One thing to remember is that we have operated for a lot more years in Maine with the statute the way it would be if this bill passed, as I said from 1979 to 1991. It was exactly the way it would be if this passes. There were no major problems. Car rental companies did not, in fact, find any lowering of their costs or rental customers did not find any lowering of their costs when it changed in 1991. When asked about what representatives from the car rental companies said they couldn't exactly remember what happened at that time, but some of their other costs must have gone up at the same time and that is why the costs weren't lowered.

The Bureau of Motor Vehicles testified, both in 1996 and 1997, in support of this concept. I don't think they have the harm of Maine customers or Maine drivers in mind when they testified in that regard. One other thing, in terms of this only being in effect when the driver is at fault in an accident. I would defer with the good Representative from Calais on that point. The way it is now, the driver's liability coverage would always be implicated, whether or not he is at fault, because when you sign the rental clause that is what happens. It is then up to you to prove that you weren't at fault. If you were in an accident, which is due to mechanical failure or another driver, I will wish you luck in trying to have you or your insurance company prove that you are not at fault. Until that is the case, your insurance company is going to be on the line. That is just the way the car rental companies would like to have it. You are going to be out there trying to prove whatever you think happened in that accident with your insurance companies lawyers and your insurance feeling the effects of that defense in court. Car rental companies can sit back and let you take all the defense in that type of a case.

Rental car companies in many states, I don't know whether they do it in Maine or not, but they check records of drivers. They ask for your license and they are free to check your record through computerized data banks that we all have if they are interested in finding out whether or not you are a safe driver. If this does, in fact, raise the insurance costs for rental companies, which I question, and it does pass on to people who rent cars some added cost, then I would say that that is eminently fair, those who rent cars should pay whatever the full cost of that is. It shouldn't be passed on to the liability coverage of all of us who drive cars all the time and who may not rent them. Let's be fair about this. The cost of renting cars are paid by the rental companies and as profit making businesses they will pass on those costs to the customers. Those are the ones who should pay and they will pay correctly. I don't think they will see their costs go up, however based on the competitive market they are in, and the fact that their insurance costs really will not go up based on the passage of this bill. Thank you. I request a roll call on this Mr. Speaker.

Representative CHARTRAND of Rockland requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Men and Women of the House. I won't take up too much more of your time, but I would like to read part of a letter that we got in committee. Part of it which states that, "The proposed bill would significantly affect our business and our ability to operate profitably. The rental car business has been subject to increased vehicle costs of 200 percent over the last five years with rental prices only increasing 2 percent to 6 percent. We would incur increased liability exposure. For example, with our fleet size of over 700 cars and trucks with an estimated value of well over \$10 million, our insurance rate would increase significantly. This increased insurance cost would need to be passed on to the consumers. However, since we are local licensees, we would have trouble competing against national companies such as Hertz and Avis, who would be able to average their losses with profits from other states. This burden would likely result in our closing some of our remote locations, which would impact the airport revenues we fund and the local communities in their ability to have a national franchise to do business and to support income tourists and local customers."

Ladies and gentlemen, this bill has been around in the last two sessions in one form or another and has not succeeded. It is like a bad penny. It keeps coming back. I hope that you will vote with me on the "Ought Not to Pass." Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House. If a car rental company has to pay the insurance costs, he and his organizations will negotiate the lowest cost insurance for his business. He has no reason now to negotiate low rates because he doesn't pay the costs. The consumer pays that cost and the consumer has no bargaining power. Yes, costs will go up slightly to the car rental companies and be passed on to the consumer in slightly higher rates, but the total to the consumer will be less. I urge you to vote against the "Ought Not to Pass" motion.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 128

YEA - Ahearne, Barth, Belanger DJ, Belanger IG, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Chick, Cianchette, Clukey, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dutremble, Farnsworth, Fisher, Foster, Frechette, Gagnon, Gamache, Gieringer, Gooley, Honey, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lovett, Mack, Madore, Mayo, McAlevey, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, Ott, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Sanborn, Saxl JW, Saxl MV, Sirois, Snowe-Mello, Stedman, Taylor, Thompson, Tobin, Treadwell, True, Tuttle, Underwood, Usher, Vigue, Waterhouse, Wheeler EM, Winsor.

NAY - Baker JL, Berry DP, Berry RL, Bolduc, Brennan, Brooks, Bull, Carleton, Chartrand, Chizmar, Clark, Colwell, Cowger, Dunlap, Etnier, Fuller, Gagne, Gerry, Goodwin, Green, Hatch, Kane, Lindahl, Mailhot, Marvin, McElroy, McKee, Meres, Mitchell JE, O'Neil, Paul, Peavey, Pieh, Powers, Quint, Richard, Rines, Rowe, Savage, Shannon, Shiah, Skoglund, Stanley,

Townsend, Tripp, Vedral, Volenik, Watson, Winglass, Winn, Wright.

ABSENT - Bagley, Baker CL, Fisk, Jabar, Kontos, MacDougall, Samson, Spear, Stevens, Tessier, Wheeler GJ, Madam Speaker.

Yes, 88; No, 51; Absent, 12; Excused, 0.

88 having voted in the affirmative and 51 voted in the negative, with 12 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

SENATE REPORT - "**Ought to Pass**" as amended by Committee Amendment "A" (S-127) - Committee on **Education and Cultural Affairs** on Bill "An Act to Provide for State and Federal Criminal Record Checks on Educational Personnel in the State" (S.P. 174) (L.D. 503)

- In Senate, Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-127) as amended by Senate Amendment "A" (S-169) thereto.

TABLED - May 1, 1997 (Till Later Today) by Representative RICHARD of Madison.

PENDING - Acceptance of Committee Report.

On motion of Representative RICHARD of Madison, tabled pending acceptance of the Committee Report and specially assigned for Monday, May 5, 1997.

SENATE DIVIDED REPORT - Report "A" (7) "**Ought to Pass**" as amended by Committee Amendment "A" (S-121) - Report "B" (5) "**Ought to Pass**" as amended by Committee Amendment "B" (S-122) - Report "C" (1) "**Ought Not to Pass**" - Committee on **Legal and Veterans Affairs** on Bill "An Act to Amend the Laws Pertaining to Wine Tasting" (S.P. 108) (L.D. 387)

- In Senate, Report "B" read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-122).

TABLED - May 1, 1997 (Till Later Today) by Representative GAMACHE of Lewiston.

PENDING - Acceptance of Any Report.

On motion of Representative TUTTLE of Sanford Report "B" "**Ought to Pass**" as amended was accepted.

The Bill was read once. Committee Amendment "B" (S-122) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 5, 1997.

SENATE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (S-147) - Minority (2) "**Ought Not to Pass**" - Committee on **State and Local Government** on Bill "An Act to Require Economic Impact Criteria on State Procurement Procedures" (S.P. 361) (L.D. 1220)

- In Senate, Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-147).

TABLED - May 1, 1997 (Till Later Today) by Representative AHEARNE of Madawaska.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" as amended Report.

Subsequently, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-147) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 5, 1997.

HOUSE DIVIDED REPORT - Majority (7) "**Ought to Pass**" as amended by Committee Amendment "A" (H-264) - Minority (6) "**Ought Not to Pass**" - Committee on **Agriculture, Conservation and Forestry** on Bill "An Act to Label All Eggs Produced in the State by Source" (H.P. 425) (L.D. 575)

TABLED - May 1, 1997 (Till Later Today) by Representative BUNKER of Kossuth Township.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" as amended Report.

On motion of Representative BUNKER of Kossuth Township, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-271) - Committee on **Legal and Veterans Affairs** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for a Passamaquoddy Representative District (H.P. 701) (L.D. 965)

TABLED - May 1, 1997 (Till Later Today) by Representative GAMACHE of Lewiston.

PENDING - Acceptance of Either Report.

Representative TUTTLE of Sanford moved that the House accept the Majority "**Ought Not to Pass**" Report.

Representative VOLENIK of Brooklin requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative McKEE: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose her question.

Representative McKEE: Mr. Speaker, Ladies and Gentlemen of the House. Would it be possible for the Representative from the Passamaquoddy people, if he is here, to speak to this? I had understood from conversations with him that there is some information which would make this vote easier for us.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, Men and Women of the House. Yes, I had that communication with Representative Moore and it was his desire that we would accept the Majority "**Ought Not to Pass**" Report. Essentially, the arguments against the bill is it violates two federal constitutional provisions, first being the equal protection clause and one person one vote principle. Recent Supreme Court cases have struck down race-based districts in North Carolina and Texas, and this district would have the same problem, unfortunately. One person one vote requires that all districts are nearly the same number of persons in them otherwise the one person one vote has a greater impact than the others. The Passamaquoddy District would be much smaller in population, about 1,245 in the average Maine legislative district of 8,132. Each voter there would have a greater impact on the outcome of state policy than voters in any district. As many of you know, I have always been an advocate for the Passamaquoddy and Penobscots and if there was any way we could have done this constitutionally, I would have supported it, but, unfortunately, based on the information given by the Attorney General's Office and by our legal staff, we could not pass this bill and that is why I would ask you to support the Majority "**Ought Not to Pass**" Report. Thank you

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I am one of those on the Minority "Ought to Pass" Report and I have spoken to the Representative of the Passamaquoddy Tribe and it is exactly the way Chairman Tuttle has expressed it to you. Therefore, I, too, would ask you to support the "Ought Not to Pass." Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 129

YEA - Ahearn, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dutremble, Etnier, Farnsworth, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Gooley, Green, Hatch, Honey, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemont, Lindahl, Lovett, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Stevens, Taylor, Thompson, Tobin, Townsend, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Winglass, Winn, Winsor, Wright.

NAY - Dunlap, Goodwin, Volenik.

ABSENT - Bagley, Baker CL, Fisher, Fisk, Jabar, Kerr, Kontos, Lemke, MacDougall, Samson, Tessier, Wheeler GJ, Madam Speaker.

Yes, 135; No, 3; Absent, 13; Excused, 0.

135 having voted in the affirmative and 3 voted in the negative, with 13 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (H-270) - Minority (2) "**Ought Not to Pass**" - Committee on **Legal and Veterans Affairs** on Bill "An Act to Remove Restrictions on Items that May Be Auctioned by Public Broadcasting Stations" (EMERGENCY) (H.P. 953) (L.D. 1316)

TABLED - May 1, 1997 (Till Later Today) by Representative GAMACHE of Lewiston.

PENDING - Acceptance of Either Report.

Representative TUTTLE of Sanford moved that the House accept the Majority "**Ought to Pass**" as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Monday, May 5, 1997.

SENATE REPORT - "**Ought to Pass**" as amended by Committee Amendment "A" (S-138) - Committee on **Agriculture, Conservation and Forestry** on Bill "An Act to Provide Relief from Barking Dogs" (S.P. 373) (L.D. 1232)

TABLED - May 1, 1997 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative CAMERON of Rumford to indefinitely postpone Bill and all accompanying papers.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House. I hope I can do this seriously. Let's get that right out of the way right off. This bill is a dog. There are a couple of reasons that I moved to Indefinitely Postpone this bill. A couple of them are kind of funny and one of them is serious. If you have the amendment before you and I am no English teacher by any means, but I hope to make this the defining moment of the bills in second reading. The way this amendment reads is it talks about the barking and whining owner, not the dog. The dog is not guilty in this case, it is the owner. This is one of those laws that we pass with unintended consequences, I am sure. I know there was a very serious intent. I know that people get very upset about this issue, but the part that I think is really important is that this should remain a local issue. Communities that have the power to pass ordinances and I realize that this becomes a problem, but again, the way the amendment is written is it is written against the person, not the dog, but even if it weren't one of the words in there in the first line says repeatedly. I don't know what that means. Does that mean if a dog barks twice or 10 times or 6 times? It is very vague and I think it is unenforceable.

I really believe that this is an issue that should go back to the local community. I don't understand why it ever got here. If it was an issue in that community, I know the lady who brought it. I know she feels very strongly about it, but it seems to me that that community should pass an ordinance to deal with it. I know there are many communities, including mine, who have an ordinance already. I think it is an issue of local control and passing this kind of law to deal with a local issue just doesn't make a lot of sense to me. A fine of \$100 for a dog barking twice or 200 times. I don't know what the number is. The bill is so vague that I think it is unenforceable. I think it is just a burden on the local communities that we don't need. I request a roll call. Thank you.

Representative CAMERON of Rumford requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Mr. Speaker, Men and Women of the House. This LD came before our committee and I really hadn't thought too much about barking dogs, but I live in rural community on a rural farm and from my farm I can hear barking dogs from a half a mile away on some evenings. At 3 a.m. in the morning, it gets to be a little aggravating. We heard a lot of testimony from people who came from many areas of Maine. They were most upset. These were people who weren't getting any satisfaction from their municipalities so they came to the state looking for help. I am a supporter of this amendment. I think that this amendment actually does help these people who have had a problem with listening to barking dogs. I am sure that everyone here has had a problem with one time or another with a barking dog. This amendment, I think, is a good one. It will give people some avenue for getting relief from this problem. This amendment, to me, is a good one. I would encourage you to vote against the Indefinite Postponement. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House. Just a point of clarification in the use of the English language. The term that is a preposition, which is used for nonhuman items. If the amendment said the owner or keeper of a dog, who repeatedly disturbs people by prolonged barking, then Representative Cameron would be correct. That would be referring to a person, but because it says the owner or keeper of a dog that repeatedly disturbs, it is obviously referring to the dog. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative McKEE: Mr. Speaker, Men and Women of the House. Certainly there is a light side of this bill and as an English teacher I am not rising to correct my good friend, Representative Volenik about the preposition. It is certainly not a preposition. There is a lot of levity here. We have a nonrestricted clause. Excuse me, we have a restrictive clause, in which case, that is certainly appropriate had it been which, it could have become nonrestrictive. We could have taken out that dependent clause, but when it is restrictive it does refer to the noun that immediately precedes it and the use of that does, in fact, refer to both humans and nonhumans, which does not however, and I would have preferred to use switch and I would have suggested that, but I wasn't the person who wrote this up.

Nevertheless, I thought that the first amendment was written properly and would not have changed it in the least. My good friend and colleague, Representative Jones, who is a lawyer, does say that neither probably would hold up in court very well. Nevertheless, we have a problem and it is a legitimate problem. We have to realize that Maine has become more populated. There are a larger number of dogs even if half of them are not registered. We do have a larger number of dogs. This is a serious problem. We considered mandating that every community have an animal control ordinance, but we knew we didn't have a room big enough in the Capitol to house the number of people who would probably come for that. I would urge that you vote to pass this bill.

Yesterday we talked about the elderly. This is really a bill to help the elderly in particular. There are people who are considering going to their selectmen and asking them to lower their property taxes because the value of the property has gone down due to this barking dog that continues night and day. Let's try to give some relief to these people who have a genuine problem that can't be addressed unless there is an animal control ordinance. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House. Boy, this one has been interesting. There is no doubt about it. I apologize to the men and women of the House for the legalese or the wording or whatever, but you know that is all done downstairs by the people the "legal experts." I will have you know that after Representative Cameron brought this issue up, I went down and they said there is nothing wrong with it. I said, Well I am sorry, but the legal people we have that sit in these little seats upstairs think there is a problem. Please relook at it. I want you to know that it is still one of them things. Please, ladies and gentlemen, don't lose sight of the fact of the problem here. We can all joke about the language. You can all joke about the surface issue, but you guys weren't in committee. You know how hard it is to get a unanimous committee report out of something like this. Does any one of you guys think that this was easy? We took three different work sessions on this. We had letters and letters and letters from all across the state. Every one of you probably have someone fairly close to you that send a letter. That is unbelievable. You don't think this is a problem

then ask some of the people that have been around here before and this has come back and come back because, ladies and gentlemen, your constituents say this is a problem in the State of Maine.

What do you think? Everybody talks about local control. I have heard people up here before say that we are going to pass this rule because somebody down there won't do it. Well that is what they wanted us to do in this bill. They wanted us to mandate. MMA came in and said they don't want a mandate. They don't want our animal control officers having to do this and what have you. We understand. We don't want to lay anything more on their plate. We went through the process and we probably killed this bill once in committee and then we reconsidered and thought about it a little bit and then we did some research. Let's see. Let's make that mom and pop and that little old gentleman go out and do the work on their own. Why are we, as a Legislature, going to help them with this barking dog problem? Go do it yourself. We did some research on that and we went through all the rights and all the legal remedies that they have about nuisances and all that stuff. I want you to know there is not one thing there that you can hang your hat on. Not one item whatsoever. The issue is before us and the issue should be before us.

What this thing does is it does not mandate anything to any town anywhere. Any animal control officer in his ordinances it doesn't say that you must enforce this act. Any selectpeople that are acting in that capacity, it doesn't tell them that you have to put this act into place. Any police officer or game warden, it says that you don't have to do this, basically, but if we enact this infraction, if there is an outrageous problem out there or a necessary action to be taken, they can hang their hat on this and actually write a summons. Everybody in this room if you haven't really heard this before as a former law enforcement officer, you will go to the District Attorney and just want to file a complaint whether it is an infraction or a criminal offense and he or she is going to review it. You think there is going to be many of these cases that end up in the court with the amount of work that we have in the court?

Ladies and gentlemen, the most outrageous problem that cannot be addressed by any means at all, currently, in the State of Maine unless the town comes out with more than 25 people at their town meetings and the people that are really affected tend to make it that one day a year and somebody does make the effort to put it on a town thing. Sure, many towns have, and many cities, have enacted nuisance laws that includes barking dogs. This isn't a new concept in any way, shape or form. This is completely permissive, voluntary to enforce by an municipality without any mandates. I would ask you guys to put the joking and the silliness aside and make a vote here to help your elderly and your citizens that are in dire need of some mechanism to get relief from this issue. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House. I have three dogs. I also have two guinea pigs. The neighbor next door has a German Shepherd. I am just setting it up. Shetland Sheep Dogs don't whine, but they tend to bark. They bark within the house if anybody comes within a 50 to 100 yard radius. German Shepherds kept outdoors in the next lot barks a lot. What happens in Westbrook is, if we have this problem, we make a telephone call to the animal control officer and every time we have done that, he has taken care of it. I think this is basically another one of our local control issues. Let the municipalities control the canines. I am not going to ask whether there is a mandate attached to this or not, but I don't really think that it is necessary for the state to get involved. If the

state is overrun with dogs to this point, then we literally are going to the dogs, but I do believe that this is something that should be taken care of at the local level. If we can't take care of our dogs, then I guess other issues are in trouble. I would urge you to vote for Indefinite Postponement of this bill and all accompanying papers.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House. The good Representative from Kossuth Township made the point why you should vote for Indefinite Postponement. He said that you are putting on a law that can't be enforced. It is not a mandate. So, why put a law on the books that you can't enforce? I mean we have enough volumes of laws out there that we are having a hard time with. We have a bill that wants a commission to do away with obsolete law. Why put another one on the books when we don't need it? I live out in the country and I hear coyotes barking and I sure am not going to go run after them and find out who their owner is so they won't bark. This law can be taken to the point of absurdity and there is no sense putting it on the books. We have a local ordinance on barking dogs in my town and you just call up the animal control officer and he goes and takes care of it. Unless we want the State Police to become involved with the state law on barking dogs, let's not put this on the books. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Men and Women of the House. I feel compelled to speak on this issue because of one of towns in my constituency. This town is a small town. There are more dogs in that town than I think there are in any other town in the state. I have encountered almost all of them. One of the people in that community has taped the dog next door barking for 16 straight hours. They have tried to put in a town ordinance, but there are so many people in the community who own dogs that they can't get an ordinance passed. For those who do not, and live next door to barking dogs, this is extremely difficult. As I read this bill, it says that towns must enact an ordinance. I don't see that that is something that cannot be enforced that towns must enact an ordinance. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Mr. Speaker, Ladies and Gentlemen of the House. They have hammered this bill around and we have had fun with it and I can understand Representative Cameron's and Representative Bruno's conversations in which they talked about this, but I was a town manager for 12 years and we dealt with this particular item pretty nearly every other week or every week. If you think this is something that is just a comical deal, then you haven't been on the receiving end of the continuous barking by a dog. In reference to Representative Cameron, I have been in on the Agriculture Committee now for five years and for five years they have brought this up and for five years we have done nothing. The smaller towns kind of ignore this kind of thing because of friends, or whatever, and they have no means to really go out and do anything about it. If this is a state law, then they can refer that this is a state law and we have to abide by it and it has some teeth in it. This is what some of these small towns need and I ask you to vote against the Indefinite Postponement situation. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Mr. Speaker, Men and Women of the House. I won't apologize for rising again as many of my other colleagues have. I just want to clear up one point. For anybody to stand on this floor and say that this ordinance is

unenforceable then they ought to check the towns and municipalities that have it and say, why do they have it? It just doesn't make sense. As a law enforcement officer I want you to know that when you have a civil infraction on the books it is not necessarily there only for somebody to get a summons, get a fine and end up in court. It is a tool ladies and gentlemen. This animal control officer or that selectperson of that town may be able to knock on that door after they have looked the situation over and decide that this lady or gentleman that is filing a complaint has a reasonable problem here. They are going to go up and knock on the door and say, Mr. so and so, you have a problem here. Could you try to do something to control this problem? The guy says, Am I violating any laws? If not, fly the heck out of here.

You see, ladies and gentlemen, we in law enforcement aren't supposed to go out there with a big stick and beat people up. You are supposed to go out and ask for voluntary compliance. I will tell you as a law enforcement officer that I can put a case together on this that the DA would take and I would get a conviction on it. I don't understand why anybody in this body thinks that this would not be enforceable. For anybody in this body to say that because my dog barks when somebody approaches my home, man, give me a break that anybody could even prevail in a complaint against that person when that is what the dog is supposed to do. It is supposed to notify the landowner that somebody is coming close to the home. I mean, common sense. It always amazes me where common sense applies outside this chamber, but inside this chamber sometimes it is absent. I hope you vote the Indefinite Postponement down so that we can adopt the amendment and move forward.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Mr. Speaker, Men and Women of the House. When I first saw this bill title back in January, and I have got to tell you that I got a chuckle, and I appreciate the levity that has bounced around the room in the last couple of days. I think we need it once and a while. I am a little tired of it. This is a unanimous committee report and I have faith in the committee system provided that the committee has done its work. The committee and we have seen it happen before that if the committee has glossed over a bill and haven't necessarily worked it then we will think about overturning the report over here. This is a unanimous report and this committee worked it and they researched it and they worked it again. To add a little levity, a constituent of mine said, how do you spell relief? I said, I am not sure. He said, "In our neighborhood it is a 30-06."

The SPEAKER PRO TEM: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House. I guess I must say that I have a bone to pick with those, I couldn't resist it, who find it so easy to get up and oppose a bill that is a unanimous report and has been worked through committee. I want to just emphasize the fact that this is not a mandate on towns. That is why we went to add it to the nuisance clause and make it part of the civil law so that when someone who has a problem with the barking dogs goes to the selectman, town officer, the Sheriff and, I doubt, the State Police, but who knows, that they will have something to go to the door with as has been previously stated. To me, this isn't a silly thing for a State Legislature to do. The woman that called me that had a problem with it, believe me, I think each one of you here would want to solve her problem. This is a good bill. I ask you please to vote against Indefinite Postponement and go on to pass the bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Men and Women of the House. I want to emphasize one of the things that I said when I stood up the very first time about local control. The way this bill is written, and it talks about repeated barking, I don't have a clue what that means. I don't know if it means twice and I don't know if it means 20 times, and it is going to be left to the individuals who interpret it. The good Representative from Farmington talked about living in the rural community and I live in a rural community. I grew up in a rural community and yes, I hear dogs bark three miles away. I don't know whose they are. I don't know who to complain about. It is not enforceable. I just don't understand why we are going to pass more bills that we can't enforce or are going to be enforced differently in every community, because it says, repeatedly. Again, I don't know what that means. If the towns that we hear about refuse to pass an ordinance because the people don't want it, then we shouldn't be doing it. If they have made a choice not to pass this law, why should we tell them that you are wrong and we are right and we are going to pass the law whether you like it or not. We heard a number of times where people have said that the community tried to pass it, but the people won't. To me, that is the answer to the question that the people don't want it.

Yes, some people came down here and testified and it is a 13 to 0 report. I have the audacity to question that. I am sorry for that, but I don't think it is the right thing to do and I don't think it is what we should be spending our time on. We have a lot more pressing issues and I apologize to the House for ever having brought it up because I really didn't think it would last this long. I still feel very strongly that it is up to the individual communities and, if you say they pass an ordinance and they can't enforce it, I don't understand what makes anybody think you can enforce this one because we passed it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative MUSE: Mr. Speaker, Ladies and Gentlemen of the House. With regards to the good Representative from Rumford not understanding a couple of points in the bill, it is not his job to understand them or to understand the verbage that is used in it. It has become the job of the police officer who is on the street who is going to enforce this bill. This is nothing more than a tool that we can provide to police officers. I don't believe that it is a bill that is addressing dogs that are barking three miles away from anyone's home. It is a bill for people who have dogs that are barking at the foot of their window and 3 a.m. when there isn't a dog officer available and there isn't anybody available to come and when they do come, the owners are asleep and they don't answer their door. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone the Bill and Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 130

YEA - Ahearne, Barth, Belanger DJ, Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Brooks, Bruno, Buck, Bumps, Cameron, Carleton, Chartrand, Chick, Cianchette, Clark, Clukey, Donnelly, Dunlap, Dutremble, Farnsworth, Fisher, Foster, Frechette, Gamache, Gerry, Gieringer, Goodwin, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Labrecque, Layton, Lemaire, Lemke, Lemont, Lovett, Mack, Marvin, McAlevey, McElroy, Mitchell JE, Murphy, Nass, Nickerson, O'Brien, Ott, Perkins, Perry, Pieh, Pinkham RG, Rines, Sanborn, Savage, Spear, Stedman, Stevens, Taylor, Treadwell, True, Usher, Vedral, Vigue, Waterhouse.

NAY - Baker JL, Belanger IG, Berry DP, Bolduc, Brennan, Bull, Bunker, Campbell, Chizmar, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Driscoll, Etnier, Fuller, Gagne,

Gagnon, Gooley, Green, Hatch, Jones KW, Kane, Kneeland, Lane, LaVerdiere, Lindahl, Madore, Mailhot, Mayo, McKee, Meres, Morgan, Muse, O'Neal, O'Neil, Paul, Peavey, Pendleton, Plowman, Poulin, Povich, Powers, Quint, Richard, Rowe, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Stanley, Thompson, Tobin, Townsend, Tripp, Tuttle, Underwood, Volenik, Watson, Wheeler EM, Winn, Wright.

ABSENT - Bagley, Baker CL, Fisk, Jabar, Kerr, Kontos, MacDougall, Pinkham WD, Samson, Tessier, Wheeler GJ, Winglass, Winsor, Madam Speaker.

Yes, 70; No, 67; Absent, 14; Excused, 0.

70 having voted in the affirmative and 67 voted in the negative, with 14 being absent, the Bill and all accompanying papers was indefinitely postponed in non-concurrence and sent up for concurrence.

SENATE DIVIDED REPORT - Majority (8) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "A" (S-135) - Committee on **Appropriations and Financial Affairs** on Bill "An Act to Flat Fund the Legislative Budget" (EMERGENCY) (S.P. 329) (L.D. 1107)

- In Senate, Majority "**Ought Not to Pass**" Report read and accepted.

TABLED - May 1, 1997 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative KERR of Old Orchard Beach to accept the Majority "**Ought Not to Pass**" Report.

On motion of Representative SAXL of Portland, tabled pending the motion of Representative KERR of Old Orchard Beach to accept the Majority "**Ought Not to Pass**" Report and specially assigned for Monday, May 5, 1997.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were tabled and today assigned:

Bill "An Act Concerning Submission of the Legislative Budget within the Unified Budget Document" (H.P. 48) (L.D. 73)

- In House, Bill and accompanying papers recommitted to the Committee on **Appropriations and Financial Affairs** on April 15, 1997.

- In Senate, Majority "**Ought Not to Pass**" Report of the Committee on **Appropriations and Financial Affairs** read and accepted in non-concurrence.

TABLED - April 30, 1997 by Representative KERR of Old Orchard Beach.

PENDING - Further Consideration.

On motion of Representative SAXL of Portland, tabled pending further consideration and later today assigned.

Expression of Legislative Sentiment recognizing the Mt. Ararat High School Girls Indoor Track team (HLS 365)

TABLED - April 30, 1997 by Representative TRIPP of Topsham.

PENDING - Passage.

On motion of Representative SAXL of Portland, tabled unassigned pending passage.

HOUSE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (H-252) - Minority (5) "**Ought Not to Pass**" - Committee on **Marine Resources** on

Bill "An Act Regarding the Harvesting of Periwinkles in the Unorganized Townships" (H.P. 359) (L.D. 482)

TABLED - April 30, 1997 by Representative ETNIER of Harpswell.

PENDING - Motion of same Representative to accept the Minority "**Ought Not to Pass**" Report.

On motion of Representative SAXL of Portland, tabled pending the motion of Representative ETNIER of Harpswell to accept the Minority "**Ought Not to Pass**" Report and specially assigned for Monday, May 5, 1997.

HOUSE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (H-210) - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "B" (H-211) - Committee on **Marine Resources** on Bill "An Act to Amend the Laws Regarding Scallop Harvesting" (EMERGENCY) (H.P. 531) (L.D. 722)

TABLED - April 30, 1997 by Representative SAXL of Portland.

PENDING - Motion of Representative ETNIER of Harpswell to accept the Majority "**Ought to Pass**" as amended by Committee Amendment "A" (H-210) Report.

On motion of Representative SAXL of Portland, tabled pending the motion of Representative ETNIER of Harpswell to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

Bill "An Act to Allow a Greater Share of the Transfer Tax to Remain in the Counties Where it is Collected" (S.P. 91) (L.D. 271) (C. "A" S-126)

TABLED - May 1, 1997 by Representative TRIPP of Topsham.

PENDING - Passage to be Engrossed.

On motion of Representative SAXL of Portland, tabled pending passage to be engrossed and specially assigned for Monday, May 5, 1997.

Bill "An Act to Require That Headlights Be on during Inclement Weather" (S.P. 144) (L.D. 423) (C. "A" S-137)

TABLED - May 1, 1997 by Representative BOUFFARD of Lewiston.

PENDING - Passage to be Engrossed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative BOUFFARD: Mr. Speaker, Ladies and Gentlemen of the House. This was a Divided Report out of the Transportation Committee and I was one of the dissenters of the Divided Report. What it is is a law, again, that is quite difficult to be enforced. If it doesn't need to be enforced, then why are we making laws that can't be enforced. I would request that this LD be Indefinitely Postponed and all of its accompanying papers.

Representative BOUFFARD of Lewiston moved that the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House. I submit to you that it is currently the law that your headlights must be on now during inclement weather. This, in fact, makes it much easier to enforce. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative BOUFFARD: Mr. Speaker, Men and Women of the House. Two years ago, as you recall, we passed a seat belt law, but we made it a passive law, which means that the

State Police cannot stop you merely for enforcement that you wear your seat belt. This bill is not a passive law. It does say that the State Police or any police officer may stop you if your lights aren't on during inclement weather. However, I am going to caution you that whenever that happens that will mean that if you aren't wearing your seat belt, then you will also wind up having to pay the fine for the seat belt as well as whatever penalty there is for use of your headlights for inclement weather. Keep that in mind and I still request that this be Indefinitely Postponed. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Men and Women of the House. This is not a difficult bill. It is a simple bill. We heard this in committee. The Department of Safety and the State Police agreed that this was a good bill. They agreed that nothing would be done as far as seat belts. This is going to require wipers with your lights, which is going to happen anyway down the road. It is going to be automatic. This was an 11 to 2 vote and we all agreed, the 11 of us, that this was a good bill. I hope that you will follow my light on this and defeat the Indefinite Postponement. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House. I found this bill very, very interesting because two years ago I put in exactly the same bill. The Transportation Committee, at that time, voted me down 13 to 0. However, in the statutes there is a provision where you have to have your headlights on during inclement weather. The Transportation Committee, at that time, said, but all the new cars are coming out with daylight running lights. This doesn't matter any longer. I have been watching this very carefully and I have noticed that, yes, all the new cars are coming out that way. However, they have left out one little thing. About half of them don't have any tail lights on when their headlights are on. Some of them do and some of them don't. This becomes a very good question, but the Transportation Department after hearing my bill put out some signs on our highways. There is one that I see frequently when I go to Aroostook County in Houlton that says, "Caution, you should use your headlights with your windshield wipers." They put five signs out, I believe. There were supposed to be one in all the main entrances coming into the State of Maine. That was from a discussion with the Transportation Department. They did that on their own without having to have a special bill to do it. I believe I would go along with the good Representative from Lewiston that this bill and all accompanying papers should be set aside. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I don't hear from constituents on a whole lot of issues, but this is one issue that I have heard from my constituents on, namely elderly constituents. Many of them don't drive any more at night, but they do need to get out sometimes in the daytime when it is raining. Although their vision still passes the legal test for vision, they would find it most helpful to have headlights on during inclement weather. So, I don't know what existing law is, and why the State Police would be supporting this additional law if the one on the books is adequate, so I have to question that. I would also agree that what we need is education of the public to turn your headlights on in inclement weather. Signs are great. Let's do both things. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I also have a lot of trouble with this bill. I can't understand that when you have your windshield wipers on, if you have the intermittent ones like a lot of us do, you get a little mist and the mist gets heavy, you turn it on and your windshield wipers are on and then they are on when it stops, somebody else might have theirs on and it becomes a judgment call. The big problem I have with this is the headlights. I remember going into a restaurant, not too long ago and I saw somebody's headlights on in their car and I walked in and I said, such and such a car, do you know your headlights are on? They said that is all right they will shut off after a while. I didn't know cars had that, but a lot of the new cars do, but mine doesn't. I can tell you that at the age of 54, my memory is not what is used to be, and whenever I turn my headlights on during the daytime and I do from time to time, invariably, I forget to shut them off. Talk about elderly issues. Those people who have problems with their memory as they get older, I hate to see a lot of these elderly people having to do this with these new provisions and then having dead batteries when they come out to get into their cars. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House. I feel compelled to tell this body that I have had more calls in support of this measure than some of the topics that you might consider much higher on the list. I would support defeating Indefinite Postponement because many people out there are concerned about this. Some of this came from people who work in town offices. I would urge you to defeat this motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Mr. Speaker, Colleagues of the House. I only rise because I have also had some calls on the bill and also I have had constituents that had asked me to put this bill in. I didn't because I knew there were bills in. Last time it was Representative Pendleton's, who I am sorry, it was killed in committee. I think it is a good bill. I oppose the pending motion and I would ask you to defeat the motion so that we can go on to support the bill. The question of enforcement has been brought up and I understand that that is a legitimate concern, but what this bill would do is, we all know about public service advertisement, when you say your lights must be on when your wipers are on, it is the law. If people know that, people are much more apt to do it. A lot of the people who have called me have been elderly people. Many of my people through my church have contacted me and asked me to support the bill. They said they have a hard time seeing cars when it is raining. Everybody might not adhere to this and comply with it, but I think more people would if they knew it was the law and certainly there would be some enforcement to those who were not doing it. I commend Representative Pendleton and the individuals who have sponsored the bill this time and I would encourage you to defeat the motion so that we can go on to vote for the bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Mr. Speaker, Men and Women of the House. I will be brief. I also rise in strong support of this bill and urge you to defeat the pending motion of Indefinite Postponement. I think this is a very, very smart bill to be doing. I must say that one of my biggest pet peeves as a driver is people not having their headlights on in inclement weather. They are very hard to see and it creates a very big hazard on the Maine highways of people not having their headlights on, not only for themselves, but for other drivers. As for the enforcement issue

that was raised, Maine has very strict drunk driving laws. We all know that. As you come into the state across the border from New Hampshire and other border areas entering the state, they have signs saying that Maine has a very tough drunk driving law. I see no reason at all why they can't put up similar signs telling people to put their headlights on if they have their wipers on to tell people that this bill is on the books. Make them aware of it so they can abide by it. Thank you. I urge you to defeat the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bar Harbor, Representative Jones.

Representative JONES: Mr. Speaker, Men and Women of the House. I see this in a different light. I see this as further erosion of the privacy that we have in the United States. This offers the police a pretextual stop for no reason, whatsoever, other than that you forgot to turn your headlights on. If you want further erosion of the Bill of Rights, then vote for this bill. If you want to protect the Bill of Rights, then support the Indefinite Postponement. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I concur with my esteemed colleague from Bar Harbor. Some years ago this Legislature passed some traffic laws, which included a \$50 fine plus tax for not using one's turn signal when one was engaging in a turn. Coming home from work early one morning around 2 o'clock, I was in a left-hand turn lane with a left-hand turn light and obeying the law I sat there and waited for the light to turn green and turned and was promptly waylaid by a municipal constable who warned me for not having used my turn signal. My impression was, Gee whiz, don't they have anything to do? I think the problem in this particular piece of legislation is twofold, alongside with the problem outlined by Representative Jones of Bar Harbor, that it may give the police, perhaps, undue cause simply to pull people over. It also might reduce the esteem of the public for the municipal police officers who would rise in court and ask, Don't they have anything else to do?

This bill was introduced before. It has been here several times. I know that the former Representative from Orono, Representative O'Dea, put it in at one point. I know that people in the community were somewhat, I don't want to say outraged, but they certainly questioned the validity of the bill simply because other countries do it and other states may have it as well. But also, in terms of a safety issue, I think we need to consider that it is pouring rain, raining buckets, and you may slow down a little bit if you think you might not be able to see other vehicles. If you know that you will be able to see them, wouldn't it encourage people to go a little bit faster in unsafe conditions? I would question the safety of this bill and I would support the pending motion and encourage my colleagues to do so also. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Men and Women of the House. I just want to read you what the current law says. Current law says, "The headlights must be illuminated during a period one half hour after sunset and a half hour before sunrise." That is nighttime and that is current law. Current law also says, "At any time when due to insufficient light or unfavorable atmospheric conditions including, but not limited to rain, freezing rain, fog or snow, persons or persons with vehicles on the way that are not discernible for a distance of 1,000 feet ahead." This is current law. That is what the current law says now and that is very hard to enforce. As a law enforcement officer to say the distance of 1,000 feet. To make this easier to enforce, we have

added one more line. "At any time when the windshield wipers are in constant use." That is what we are adding to the current law. That is the only thing we are adding. "At any time when the windshield wipers are in constant use. This subsection does not apply when the vehicle is parked or standing off the main traveled portion of the way." It makes it much easier to enforce and it doesn't include intermittent wipers. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House. I really see this as a safety issue, not one of civil rights. I think there are certain traffic laws that we have that are based on safety for drivers and others on the road, and yes, the police have the right to stop somebody if they are breaking them, but that is no more a violation of civil rights than if you are speeding, then the police officer has the right to stop you. There are certain responsibilities we have to take when we have the privilege of driving on the public ways. I think if we passed this law, it would be another one of those. It will not be any more of an infringement on civil rights than being stopped for any other traffic violation. I would urge you to vote against the prevailing motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Mr. Speaker, Colleagues of the House. I regret that I didn't hear Representative Jones from Bar Harbor's testimony after the reference to it. I would just ask a question if I may.

The SPEAKER PRO TEM: The Representative may pose his question.

Representative PERKINS: Mr. Speaker, Colleagues of the House. To anyone who might answer, before we send out another mandate, have we exhausted all efforts for education and information in this regard? Have we put up signs? Have we sent out with applications for driver's license? Do we have a stamp on the instruction book for driver's course? Have we exhausted all possibilities before we send this mandate out?

The SPEAKER PRO TEM: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Jones.

Representative JONES: Mr. Speaker, Men and Women of the House. I just wanted to make one comment to the good Representative from Rockland, Representative Chartrand. I see a distinct difference between a pretextual stop such as this and an actual civil offense of speeding. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Bouffard. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative BOUFFARD: Mr. Speaker, Ladies and Gentlemen of the House. In the committee hearing it was suggested here that the Department of Transportation was heavily in favor of this bill. Colonel Matt Dow testified neither for nor against the bill. As it was previously stated, the law as it was on the books, now was written that you must be using your headlights in inclement weather. What has come up with this bill is, what has been added is, that when windshield wipers are used and what has been struck out is insufficient light and persons or vehicles on the way are not discernible for a distance of 1,000 feet ahead. That has been struck out. They are changing the existing law and they are adding that they will do it with windshields. Colonel Dow spoke neither for nor against.

Another thing that I might suggest is that there are only six states that have this law on the books.

In the testimony that was presented to us by the sponsor of the bill, she made reference that many committee members and probably many of you in the House may have traveled Route 101 in New Hampshire. It is said that it is a very dangerous zig zag road, I guess. In an attempt to cut down on accidents on this roadway the State of New Hampshire has posted signs on this route, which encourage drivers to turn on their headlights regardless of weather conditions. I asked the Senator if the State of New Hampshire had such a law? Her answer was no. Again, I want to remind everyone that if this law that is going to be passed now passes, it means that everyone that is not wearing their seat belts will automatically get an extra fine in addition to the fine of not having your lights on when your windshield wipers are on. I still feel that this should be Indefinitely Postponed.

Representative DRISCOLL of Calais requested that the Clerk read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. We do make the laws here and we ask our police to enforce our motor vehicle laws. To say that is automatically going to result in a ticket for not wearing your seat belt, since we instituted the seat belt law, I haven't heard any complaints about the police writing too many tickets about it. When we give our officers direction to enforce our laws, we also give them the authority to use discretion. Yes, there are police officers out there who do nothing but write tickets. Fortunately, and thank goodness, they are the small minority. Most police officers are more involved, especially during the evening hours, looking for OUIs than they are anything else. We give them discretion and, at least I have heard lately, that they are still using good discretion. I used to stop people and tell them that I could get them to slow down or do something with a warning just as well as a ticket. I would tell the operator if his wife was in the car that I saved him \$80 and make sure you take your wife out to dinner tonight. I had pretty good compliance. I think as long as we are asking our officers to enforce our laws, we also expect that they use good discretion. I think that this should be one of those things.

I have spent a whole career and I never wrote a person up for missing a front plate off their car. In my whole career I only met one officer that really ran into that situation and that was a bugaboo with him. I do think we give our officers training and we ask them to use discretion and until we hear that they are not using that discretion, we should give them the tools they need. It is a safety issue. I automatically do what I am doing and I know a lot of other people who use their lights in inclement weather, regardless. I believe it is a safety issue and we should do everything we can to promote highway safety. I am torn because I don't like telling people what they have to do in their vehicle. Just as I supported the seat belt law, but changed my mind in the waning hours because my constituents kept telling me, don't tell me what to do, I will make that decision myself. I think because this is a safety issue it deserves our consideration. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bar Harbor, Representative Jones. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative JONES: Mr. Speaker, Men and Women of the House. Many of us sat for many, many hours discussing the seat belt law. I think we took seven votes one day on that

particular law and none of them passed. I expected to see in the newspaper the next morning: Legislature confused. The real issue was that we wanted the primary stop for not wearing seat belts, which would have been a reason for the police to stop for no reason at all and say, Gee, I didn't think you had your seat belt on. I am sorry. I just want to state that this is a primary stop. The seat belt law, at the moment, is a secondary stop. If you have an infraction, such as you are speeding, then they can give you a fine for not wearing your seat belt. I just want to mention that the erosion of the Bill of Rights and the Search and Seizure Law comes in little bits like this. I am no person to stand here and say that I am any Thomas Jefferson, but I know when I am not a Thomas Jefferson and that is when I am tinkering with the Bill of Rights. I am not smart enough to do that. I stay away from it. I know you hear me get up and whine about the Constitution on a regular basis. It is because I want to protect it. I want to protect that Bill of Rights. That is what protects this government. That is what protects the people from the government. That is why I stand up and argue that. Little things like this may not be very important on the screen at the moment, but when you pile them on one after another after another, you do have an erosion of your basic civil rights under the bill of Rights. It is something that we should take very, very seriously. Again, I ask you to support the Indefinite Postponement of this bill and all its accompanying papers.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative PENDLETON: Two years ago when I put this bill in, I have traveled all over the United States and every state where I have seen this type of action taken place, there always has had to have been a posting of signs notifying motorists that this is the action that they had to take during inclement weather. When I put my bill in, I added that same posting of signs. This is missing it and I don't seem to be able to find the amendment. I had a very large fiscal note on my bill because of that posting. I would like to know if that was taken under consideration?

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

Representative BOUFFARD of Lewiston requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the bill and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 131

YEA - Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Buck, Bumps, Cameron, Carleton, Clark, Cross, Davidson, Desmond, Dexter, Dunlap, Foster, Gagne, Gamache, Gerry, Goodwin, Honey, Jones KW, Joy, Joyce, Joyner, Kasprzak, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Mack, Meres, Nass, Nickerson, Pendleton, Perkins, Perry, Pinkham RG, Poulin, Rines, Saxl JW, Stanley, Stevens, Taylor, Thompson, Tobin, Tuttle, Underwood, Vedral, Waterhouse, Wheeler EM.

NAY - Ahearne, Baker JL, Barth, Belanger IG, Berry DP, Bodwell, Brennan, Brooks, Bruno, Bull, Bunker, Campbell, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Donnelly, Driscoll, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagnon, Gieringer, Gooley, Green, Hatch, Jones SL, Jones SA, Kane, Kneeland, Lindahl, Lovett, Madore,

Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pieh, Plowman, Povich, Powers, Quint, Richard, Rowe, Sanborn, Savage, Saxl MV, Shannon, Shiah, Skoglund, Snowe-Mello, Spear, Stedman, Townsend, Treadwell, Tripp, True, Usher, Volenik, Watson, Winglass, Winn, Wright.

ABSENT - Bagley, Baker CL, Belanger DJ, Fisk, Jabar, Kerr, Kontos, Lemke, Lemont, MacDougall, Murphy, Pinkham WD, Samson, Sirois, Tessier, Vigue, Wheeler GJ, Winsor, Madam Speaker.

Yes, 52; No, 80; Absent, 19; Excused, 0.

52 having voted in the affirmative and 80 voted in the negative, with 19 being absent, the Bill and all accompanying papers was not indefinitely postponed.

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

SENATE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (S-98) - Minority (2) "**Ought Not to Pass**" - Committee on **State and Local Government** on Bill "An Act to Establish Basic Standards and Procedures for Personal Services Contracting by the State" (S.P. 294) (L.D. 945)

- In Senate, Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-98).

TABLED - May 1, 1997 by Representative CARLETON of Wells.
PENDING - Motion of Representative AHEARNE of Madawaska to accept the Majority "**Ought to Pass**" as amended Report. (Roll Call Ordered)

On motion of Representative AHEARNE of Madawaska, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

Resolve, to Establish Qualifications for Constitutional Officers and the State Auditor (EMERGENCY) (S.P. 80) (L.D. 219) (C. "A" S-99)

TABLED - May 1, 1997 by Representative AHEARNE of Madawaska.

PENDING - Final Passage.

On motion of Representative AHEARNE of Madawaska, tabled pending final passage and specially assigned for Monday, May 5, 1997.

BILL HELD

Bill "An Act Pertaining to Free Meals for Legislators during a Prayer Breakfast" (S.P. 402) (L.D. 1297)

- In House, Passed to be Engrossed.
HELD at the Request of Representative FARNSWORTH of Portland.

On motion of Representative FARNSWORTH of Portland, the House reconsidered its action whereby the Bill was passed to be engrossed.

The Bill was read once and was assigned for second reading Monday, May 5, 1997.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

LEGISLATIVE RECORD- HOUSE, May 2, 1997

On motion of Representative OTT of York, the House
adjourned at 12:05 p.m., until 9:00 a.m., Monday, May 5, 1997.