

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
23rd Legislative Day
Friday, May 9, 1997

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

Prayer by Reverend Calvin O. Dame, Unitarian Universalist Community Church, Augusta.

Pledge of Allegiance.

Doctor of the day, Theodore H. Sanford, M.D., Auburn.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 647)
JOINT RESOLUTION RECOGNIZING THE
50TH ANNIVERSARY OF
THE MAINE TRAPPERS ASSOCIATION

WHEREAS, the wilderness region that eventually became the State of Maine was explored by early colonists in search of fur-bearing animals, primarily beaver, whose valuable pelts were used as a form of currency; and

WHEREAS, the State has a long tradition of trapping fur-bearing animals for the fur, meat and other natural products and the traditional skills of trapping, including respect for and knowledge of the outdoors, are passed along in many families in this State from generation to generation; and

WHEREAS, in 1947, the Maine Trappers Association was established to provide trappers with a means of expressing and furthering their interests in the conservation of fur-bearing animals, the protection of wildlife habitat and the promotion of humane trapping techniques; and

WHEREAS, the Maine Trappers Association has worked very closely with the Legislature and the Department of Inland Fisheries and Wildlife to ensure the adoption of appropriate trapping regulations and to enhance the management and protection of the State's abundant fur-bearing resources; and

WHEREAS, regulated modern trapping techniques are recognized by professional wildlife managers as a versatile, safe, effective and ecologically sound method of harvesting and managing fur-bearing animals; and

WHEREAS, trapping is the primary tool of the State's animal damage control program and plays an important role in protecting rare and endangered species from predation by other wild animals and is essential to the success of many wildlife research projects; and

WHEREAS, trapping provides income, recreation and an outdoor lifestyle for many citizens of the State through use of a renewable natural resource and the Maine Trappers Association is the only organization in the State whose primary purpose is to represent the interests of the trapping profession; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the First Special Session, proudly recognize the Maine Trappers Association on the occasion of the association's 50th anniversary and express our appreciation to the 1,100 members of the Maine Trappers Association for their outstanding contributions and dedication to the trapping profession and to wildlife conservation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Trappers Association and the Department of Inland Fisheries and Wildlife.

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

Refer to the Committee on Judiciary

Report of the Committee on **Health and Human Services** on Bill "An Act to Require Health-care Providers to Honor Do Not Resuscitate Orders" (S.P. 572) (L.D. 1729) reporting that it be referred to the Committee on **Judiciary**.

Came from the Senate, with the report read and accepted and the Bill referred to the Committee on **Judiciary**.

The Report was read and accepted and the Bill referred to the Committee on **Judiciary** in concurrence.

Divided Report

Majority Report of the Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-132) on Bill "An Act to Require the Purchaser of Tobacco Products to Produce Suitable Identification" (S.P. 133) (L.D. 412)

Signed:

Senators: LONGLEY of Waldo

PARADIS of Aroostook

Representatives: MITCHELL of Portland

FULLER of Manchester

KANE of Saco

PIEH of Bremen

QUINT of Portland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (S-133) on same Bill.

Signed:

Senator: MITCHELL of Penobscot

Representatives: BROOKS of Winterport

LOVETT of Scarborough

JOYNER of Hollis

BRAGDON of Bangor

SNOWE-MELLO of Poland

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-132) as amended by Senate Amendment "A" (S-157) thereto.

Was read.

Representative SAXL 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 later today assigned.

Divided Report

Majority Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-193) on Resolve, to Evaluate Permit by Rule and Compliance with the Natural Resources Protection Laws (S.P. 396) (L.D. 1293)

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
NICKERSON of Turner
MERES of Norridgewock

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

Signed:

Representatives: DEXTER of Kingfield
FOSTER of Gray

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Resolve passed to be engrossed as amended by Committee Amendment "A" (S-193).

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" (S-193) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a Vote of 3/5 of Each House of the Legislature to Enact or Increase a Tax or License Fee (H.P. 357) (L.D. 480) on which the Minority "**Ought to Pass**" as amended Report of the Committee on **Taxation** was read and accepted and the RESOLUTION passed to be engrossed as amended by Committee Amendment "A" (H-221) in the House on April 30, 1997.

Came from the Senate with the Majority "**Ought Not to Pass**" Report of the Committee on **Taxation** read and accepted in non-concurrence.

On motion of Representative KONTOS of Windham, the House voted to Insist.

Non-Concurrent Matter

Bill "An Act to Provide Relief from Barking Dogs" (S.P. 373) (L.D. 1232) on which the Bill and accompanying papers were indefinitely postponed in the House on May 2, 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-138) and asked for a Committee of Conference in non-concurrence.

The House voted to Insist and join in a Committee of Conference. Sent up for concurrence.

Non-Concurrent Matter

Bill "An Act to Remove Restrictions on Items that May Be Auctioned by Public Broadcasting Stations" (EMERGENCY) (H.P. 953) (L.D. 1316) which was passed to be engrossed as amended by Committee Amendment "A" (H-270) in the House on May 6, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-270) and Senate Amendment "A" (S-190) in non-concurrence.

The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (S.P. 646)

118TH LEGISLATURE
May 7, 1997

Senator Marge Kilkelly
Representative Norman Paul
Chairpersons

Joint Standing Committee on Inland Fisheries and Wildlife
118th Legislature
Augusta, Maine 04333

Dear Senator Kilkelly and Representative Paul:

Please be advised that Governor Angus S. King, Jr. has nominated Harold H. Brown and A. David Trahan for appointment as members of the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 12, MRSA Section 7033-A, these nominations will require review by the Joint Standing Committee on Inland Fisheries and Wildlife and confirmation by the Senate.

Sincerely,

S/Mark W. Lawrence
President of the Senate
S/Elizabeth H. Mitchell
Speaker of the House

Came from the Senate, read and referred to the Committee on **Inland Fisheries and Wildlife**.

Was read and referred to the Committee on **Inland Fisheries and Wildlife** in concurrence.

The following Communication: (H.C. 233)

STATE OF MAINE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT

May 7, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature

State House

Augusta, Maine 04333

Dear Senator Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business and Economic Development has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1335	An Act Requiring Disclosures by Payroll Processing Companies
L.D. 1596	An Act Concerning Requirements for Payroll Processing Companies
L.D. 1831	An Act to Amend the Laws Governing Debt Collection Activities

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. John T. Jenkins
Senate Chair

S/Rep. Marc J. Vigue
House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 234)

STATE OF MAINE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE

May 7, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 918 An Act to Increase the Penalties for Criminal OUI for Persons Previously Convicted of Vehicular Manslaughter
- L.D. 1434 An Act to Prohibit a Person Whose License to Operate a Motor Vehicle Has Been Suspended from Operating an All-terrain Vehicle on Roads and Highways
- L.D. 1438 An Act to Increase the Penalty for Operating after License Suspension and under the Influence
- L.D. 1656 An Act to Suspend Certain Licenses of Teenagers Convicted of a Juvenile Crime
- L.D. 1674 An Act Related to Bind-over of Older Juveniles Who Commit Certain Offenses

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Robert E. Murray, Jr. S/Rep. Edward J. Povich
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 235)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS
May 7, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 714 An Act to Prohibit the Hiring of Tutors in Lieu of Employing Education Technicians
- L.D. 721 An Act to Reduce School Truancy
- L.D. 815 An Act to Integrate Teacher Retirement and Other Educational Support Funds into the System for Distributing General Purpose Aid to Education
- L.D. 852 An Act to Prohibit the State from Dictating Educational Curricula
- L.D. 1012 Resolve, to Require the Department of Education to Develop a Framework for the Study of Social Studies in Public Schools
- L.D. 1036 Resolve, to Review the Components of the Operating Costs in the School Finance Formula
- L.D. 1209 An Act Regarding the School Administrative District No. 46 Applied Technology Center
- L.D. 1271 An Act Pertaining to Truancy

- L.D. 1281 An Act to Require Individuals to Pass At Least 2 National Teachers Examination Core Battery Tests before Being Able to Be Recertified
- L.D. 1355 An Act to Fully Fund Local Education with Income and Sales Tax Revenues
- L.D. 1516 Resolve, to Establish a Task Force to Review and Reform the System of Learning Results
- L.D. 1739 An Act to Amend the Formula Determining the Local Share in the School Funding Process

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Peggy A. Pendleton S/Rep. Shirley K. Richard
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 236)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES
May 7, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 642 An Act to Extend the Time Period Used by the Department of Human Services in Determining Medical Eligibility for Medicaid Reimbursement for Residents of Nursing Facilities
- L.D. 696 An Act to Assist 2-parent Families in which At Least One Parent is Incapacitated

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Judy Paradis S/Rep. J. Elizabeth Mitchell
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 237)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON NATURAL RESOURCES
May 7, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1696 An Act Regarding Low Emission and Zero Emission Vehicles
We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,
S/Sen. Sharon Anglin Treat S/Rep. G. Steven Rowe
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 238)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION
May 7, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 489 An Act Relative to the Improvement of the Maine Turnpike Authority
L.D. 1485 Resolve, to Require the Department of Transportation to Study the Use of Culverts
L.D. 1838 Resolve, Requiring the Department of Transportation to Study the Method of Posting Roads

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. William B. O'Gara S/Rep. Joseph D. Driscoll
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 239)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY
May 7, 1997

Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Utilities and Energy has voted unanimously to report the following bill out "Ought Not to Pass":

- L.D. 1539 Resolve, to Ensure a Reduction in Electric Power Rates in the Event of Electric Power Industry Restructuring

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,
S/Sen. Richard J. Carey S/Rep. Kyle W. Jones
Senate Chair House Chair
Was read and ordered placed on file.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Vera B. Cunningham, one of Bar Harbor's most beloved citizens. Victorious on the golf course, notorious at the bridge table and a force to be reckoned with in the classroom, Mrs. Cunningham taught generations of Mount Desert Island young people from a one room school in Bernard to the 6th grade classrooms of Bar Harbor. A stern look from Mrs. Cunningham can still wither most of the adult population of the island. She exemplifies the spirit of volunteerism in her many endeavors in education and health care. A woman of abundant energy and determination in dance class or as Chairman of the Board, she is honored with the dedication of the YWCA Vera B. Cunningham Computer Room; (SLS 157)

On objection of Representative JONES of Bar Harbor, was removed from the Special Sentiment Calendar.

Was read and passed in concurrence.

the North Gorham Public Library on the occasion of its 100th Anniversary. The library has roots seated in history, with its first space located in a building devoted to civic, religious and temperance meetings. We extend our best wishes on this special anniversary; (HLS 458) by Representative LABRECQUE of Gorham. (Cosponsors: Senator O'GARA of Cumberland, Representative PENDLETON of Scarborough)

On objection of Representative DONNELLY of Presque Isle, was removed from the Special Sentiment Calendar.

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

REPORTS OF COMMITTEES
Divided Report

Majority Report of the Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-407) on Bill "An Act Concerning Threatening the Use of Deadly Force Against a Law Enforcement Officer Engaged in Carrying out Public Duty" (H.P. 79) (L.D. 104)

Signed:

Senators: MURRAY of Penobscot
O'GARA of Cumberland
MITCHELL of Penobscot

Representatives: MUSE of South Portland
O'BRIEN of Augusta
McALEVEY of Waterboro
POVICH of Ellsworth
JONES of Greenville
TOBIN of Dexter
BUNKER of Kossuth Township
FRECHETTE of Biddeford
WHEELER of Bridgewater

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

Signed:

Representative: PEAHEY of Woolwich
Was read.

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

The Bill was read once. Committee Amendment "A" (H-407) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Allow the Release of the Name of and Juvenile Crimes Committed by a Juvenile 14 Years of Age or Older" (H.P. 101) (L.D. 125)

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 to Pass**" on same Bill.

Signed:

Representative: WATERHOUSE of Bridgton

Was read.

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

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I was approached about three months ago to introduce this legislation, which would allow the name of juvenile criminals, 14 years old or older, to be used by the police, courts and to be published. I was invited into Don Morris, the Police Chief of Waterville's office, where he told me what was happening in the Waterville area. There had been a number of robberies. Children, so called children, 14, 15 and 16 years old committing robberies and utilizing weapons. Presently, from this morning's paper, you are being passed a sheet from this morning's paper. It says, "Washington alarmed by the brutality and viciousness of juvenile crime, the House overwhelmingly passed a get tough bill Thursday ordering adult trials for violent Americans barely in their teens. The bill if enacted would bring about sweeping change in federal handling of juvenile crime ending the notion that violent offenders of 14, 15 and even 13 should be treated as youngsters and their offenses considered childhood misdeeds."

Ladies and gentlemen, I propose to you that if you get shot with a .38 from a 14 year old, it will finish you off just as well as if it were a 25 year old. Both the Clinton Administration and the Republican Congress want to impose severe treatment on some juvenile offenders. The House bill tries to persuade the states to transform their juvenile justice system by offering \$1.5 billion in incentive grants over three years. This is being proposed by the federal government to try to get us to bring this under control. This is extremely serious. I brought it to the Judiciary Committee with that in mind that this should be done. The Kennebec County Sheriff's Department supported it. The District Attorney supported it. All the police chiefs that I spoke to supported it.

Minors, ladies and gentlemen, in the United States are responsible for 14 percent of all violent crime in 1995. It is up 10 percent from 1980. A recent Justice Department report found that in 1995 juveniles committed 9 percent of the murders, 15

percent of forcible rapes, 20 percent of robberies and 13 percent of aggravated assault. The situation will be getting worse in the next few years because an expected explosion in the number of children reaching potential crime committing ages. Ladies and gentlemen, this was brought to the surface. I think it is something that we should have looked at, more than just trying to divide it with legalism. I think we should have really given a lot more respect than it actually did. I will not call for a roll call for support on this. I think it should be understood that this is a problem that will be resurfacing in the near future and I think we will have to face it. I am sorry that we will not be facing it in the very near future.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. I would like to tell you about the Judiciary Committee's position on this bill and what the bill does and doesn't do. First of all, I would like to inform you that there are several major bills currently pending to reform the juvenile justice system in the State of Maine. They are pending before the Criminal Justice Committee and they are going to be acting on those bills. This particular bill dealt with only one issue. The bill indicated that we should begin releasing the names of juveniles that are arrested for any crime. These would be juveniles that the names would be released before a court petition was brought against them. Certainly, before they are ever convicted of a crime or brought to court even. I understand that juveniles are committing serious crimes. This Legislature, in the recent past, has opened the procedures in juvenile court. They are no longer a private procedure when the juvenile is charged with a felony.

However, we do protect the names of juveniles that are just arrested and not charged. Many of these juveniles commit very minor crimes, first offenses. Many of them are dealt with on an informal basis by the juvenile intake officers. If this bill were to be enacted, if a child of 14 years old throws a snowball through a window and the police officers arrest him for it, he would be able to have his name published in the newspaper. I ask you if you think that that is a good public policy in this state? The issue of the other aspects of the juvenile crime system are not in this bill. If you have concerns about those issues, then you should transmit them directly to the Criminal Justice Committee. In fact, I have one of the major reform bills of the juvenile justice system and I would love for you to look at my bill and give me your support on that in the future.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. This is not a bill that would take throwing a snowball through a window and consider this a crime. I think this is not even warranted. This would be major crimes committed by underage teenagers. It is not something to be considered lightly like throwing a snowball. If we cannot trust the police chiefs that we hire to make decisions based on whether or not they are going to utilize the name of somebody that has committed a crime, then we want to get rid of the police chief. We have to put some trust into what the criminal justice system will do and will judge to be a major crime. Ladies and gentlemen, I am going to ask for a roll call based on that snowball. Thank you.

Representative VIGUE of Winslow 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: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Madam Speaker, Ladies and Gentlemen of the House. I don't know how to urge you to vote because we don't have a motion on the floor, I don't believe at this time. Is that correct?

The SPEAKER: The Chair would inform the body that the board is being corrected. The Representative from Naples, Representative Thompson, made the motion to accept the "Ought Not to Pass" Report. The Representative may proceed.

Representative LINDAHL: Thank you Madam Speaker. I thought that was the case, but it didn't show. I agree with Representative Vigue very strongly. Unless the Criminal Justice Committee or somebody there can say they are going to address this problem with a future bill, then I would urge voting against the pending motion. I think it is time we stop protecting these little darlings. If they are going to do the crime, then I see no problem with publishing their name. I think that it will encourage these people not to commit these crimes. I am sure that throwing a snowball through a window would not be newsworthy and wouldn't be printed in any paper even the small paper in my hometown. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. I understand your concern on this issue. I have a bill pending on a broad spectrum of issues that was asked to be introduced by the Maine Prosecutors Association. This bill and several other bills were all heard in the Criminal Justice Committee. We have a sentencing institute that is being done this year and the Maine Criminal Justice Commission is working on all the aspects of the juvenile adjudication process. My bill is a broad spectrum bill that will cover, most likely, this issue and lots more. I would highly recommend that we go along with the Majority "Ought Not to Pass." Give us the time to study the issue and come back in the next session to hopefully deal with this issue. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Madam Speaker, Men and Women of the House. I was one of the 12 to 1 majority on this committee. When a bill comes out of committee, it is 12 to 1 for a reason. I would like to read to you from the Maine Council of Churches who spoke in opposition to this bill. "The Criminal Justice Program of the Maine Council of Churches is committed to forwarding a restorative justice model in Maine. One of the principles of restorative justice is to support the reintegration of the offender into the community. This legislation goes against this principle by releasing the names of juveniles age 14 or older who are arrested for a crime even before a petition is brought. This case may not proceed past the arrest stage and a petition may never be brought, but the stigma of having his or her name and possible crime committed released to the community remains. This could have major ramifications in the life of a juvenile." Again, this is from the Maine Council of Churches. I certainly urge you strongly to support the strong bipartisan majority on this committee report. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. When the right bill comes up that replaces the names of juvenile offenders, I am going to support it. This is not the right bill. This is not the right subject to be in front of the Judiciary Committee. It is a quick fix. It deserves a great deal of study and the Criminal Justice Committee is doing that. My understanding that they will be back in front of this body next year with some proposals. I would urge you to support the pending report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. I, too, urge you to reject the Majority "Ought Not to Pass" Report and let's get on with passing this bill. I speak on behalf of the Sheriff of Waldo County who came down and testified, I believe, on this bill and on other bills as well. This must be something of a popular issue because I know that there were several other bills in. I believe the bill that I put in, which is somewhat similar in nature is going to be folded into the criminal justice study. That being the case, I think that we will be dealing with some of these issues next year. In the meantime, the Sheriff of Waldo County doesn't have much to deal with with regard to juveniles. When he came down here and spoke to us earlier in the committee, he talked to us a little bit about some of the crime that is going on and referred to it as epidemic.

There is a particular case that he has referred to several times in my discussions with him where a juvenile in Waldo County has been arrested 17 times for offenses, ladies and gentlemen, 17 times and each time he walks out of the place and he laughs at the victims. He wants to be armed. The Sheriff wants this, to let people know, store owners and others of the nature of the crime and if the individual who is the perpetrator of this crime is living next door at least he will be able to identify it to the victims. That is what we are talking about here this morning. I agree, absolutely, that some of these issues need to be studied and dealt with in a complete revision of the juvenile code but, in the meantime, I think we need to give our law enforcement officers an opportunity to have this as their ability to deal with juvenile crime. Thank you Madam Speaker.

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

Representative MCALEVEY: Madam Speaker, Men and Women of the House. Currently, if a juvenile is charged with a felony, the name can be released. Juveniles are not convicted of crimes, they are adjudicated. That is a little different because it means that their record is not held against them in future dates. Once a juvenile has been adjudicated, which is convicted or pleads, regardless of the crime, that is all public information. I think if we believe releasing the names of the perpetrators in the newspaper is going to stop crime, I don't think so. It has been my experience that it is going to enhance their standing among their peers and we are going to create a number of juvenile Jessie Jameses. I think we need to look at the behavior and not enhance the behavior. I can understand the frustration of people wanting to know and wanting to take retribution. This bill is not going to do that. Our committee did refer a number of juvenile bills to a study that is coming out. There is a lot of issues here. To believe that posting their names on a bulletin board or in the newspaper is going to shame them, curtail them or make the neighborhood safe is probably going to have the opposite effect because my personal experience is that every time I have dealt with a juvenile and I am talking repeat offenders, I think that is what we are looking at, they develop a certain aura around themselves as being a noted out, so to speak. This enhances their attitude about their behavior. It didn't diminish it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. As some of you know, I own a small mom-and-pop store back where I come from. I can tell you from some personal experience how frustrating it is when these youngsters, not only throw snowballs, but also throw bricks through the windows of my little store. It happened on four occasions in the last two years. The insurance company has

raised the deductible on me and it is a very expensive proposition to have those windows replaced. Because of the existing laws, even though I know who the youngster is who does this, I am not able to call the youngsters parents and ask them if they might help me in paying for the damage to my small business.

In addition to that, I have had several break-ins over the years where a youngster has stolen several thousand dollars worth of inventory from me. I know who these youngsters are and the police tell me that I can't approach the youngster nor his parents. It is a very frustrating experience and very expensive. If it were just snowballs, I wouldn't be concerned at all.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. I, too, own a store and I, too, am frustrated with juvenile justice in the State of Maine. It seems to be a national problem and the Criminal Justice Committee, as you have heard, will focus next session on juvenile justice. We recognize how important this issue is. We won't disappoint this body. We assure this body that we will come up with a bill that you can be proud of. Let us do the work and please support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Mack.

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. I have a constituent in my district whose home was robbed by some juveniles. They trashed the house. They stole the TV, jewelry, valuables and they also stole some guns from the house. The police said they know who it was, but they could not release the name to this lady and her husband whose house was broken into. I thought it was atrocious that they could not find out who broke into their house. If someone is accused of their crime, they get to face their accusers. If your house is broken into, are we saying that you cannot find out who has broken into your house and stolen your property even when they are convicted? What kind of message does this send to the children? Does it say that you can break into people's houses? You can commit violent crimes. You can rob from people and it is okay. We might have a penalty for you, but no one will find out. Are we afraid that they might be shamed into not committing a crime if people know? I think this is the wrong message to send to the children. If they commit a violent crime, people should know that they have done it. Thank you and I urge you to vote against the pending motion.

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

Representative BAKER: Madam Speaker, Men and Women of the House. I want to take a position which is not the proper liberal position. While I was campaigning, the Bangor Police told me that they were extremely concerned about the increasing juvenile crime. They explained to me that gangs of youths were coming into the State of Maine, shoplifting gangs, and getting away with murder because they knew they would not be prosecuted. I want to take that police frustration seriously. Second of all, someone very, very close to me was recently raped at knife point by a juvenile. These youths are old enough to become parents. They are old enough to destroy lives. I say it is time to hold them accountable. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Powers.

Representative POWERS: Madam Speaker, Men and Women of the House. I want to acknowledge that we are fully aware of the frustration and upset of our business people and homeowners here in the state with crimes. Those crimes are committed by anyone of any age. We know that. All of us have

heard that and our job is to represent the interests of those owners well. However, there is a process for the handling of these crimes. That process is to be gone through diligently and carefully. What the difficulty with this bill is that it circumvents that process in a rather dangerous way. I will remind you of the remarks of my colleague on the Judiciary Committee from Acton, Representative Nass, who said that this is not the bill to handle this frustration. As Representative Povich has said, Criminal Justice will be addressing this issue with a bill that goes in the right direction. The problem with this bill is it will release the name of a juvenile prematurely before even a primary investigation is handled. That can derail any effort at rehabilitative justice. I urge you to support the committee's bipartisan "Ought Not to Pass." Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. It is very obvious that there is a great deal of confusion in the room about how the entire system works. Putting a juvenile's name in the paper and releasing the juvenile's name to the media is not going to repair broken windows or put inventory back into a store that has been broken into. Juveniles that are convicted of violent crimes, rape and what not, the names of those individuals are released. The simple fact of the obvious confusion that is taking place in the room should be more than enough reason why we ought to let the sentencing institute that will look at all of this, let these individuals who work in the system, prosecutors, defense attorneys, police officers, sheriffs and members of this body, let these people deal with this during the summer. Let them work something out and as the good Representative Povich has pointed out, they will bring back a package that we can all be very proud of and very pleased with. I would urge you to support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue. 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 VIGUE: Madam Speaker, Ladies and Gentlemen of the House. The problem is the process. That is exactly what we should be correcting, the process. Fourteen year olds at the present are more sophisticated than 21 year olds when I was growing up. Right now they know more through television and the process of what we call the effects of gangs and the desire to be accepted. These kids are doing things at 14 that we never thought of doing until we were 21 years old. I would ask you to send a strong message to the people involved that this must be changed. The only way we are going to be able to do it is to send them a strong vote. I don't expect this to reverse the vote, but I think we want to send a strong message that we expect this to change and change soon. I ask you to vote against the pending motion.

The SPEAKER: 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. 159

YEA - Bagley, Baker JL, Berry RL, Bigl, Bolduc, Brennan, Bull, Bunker, Carleton, Chartrand, Chizmar, Cianchette, Colwell, Cowger, Davidson, Desmond, Driscoll, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jones KW, Kane, Kontos, LaVerdiere, Layton, Lemaire, Madore, Mailhot, Mayo, McAlevey, McKee, Mitchell JE, Morgan, Muse, Nass, O'Brien, O'Neil, Peavey, Pendleton, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard,

Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Volenik, Watson, Wright, Madam Speaker.

NAY - Ahearne, Baker CL, Barth, Belanger DJ, Berry DP, Bodwell, Bouffard, Bragdon, Brooks, Bruno, Buck, Bumps, Cameron, Campbell, Chick, Clark, Clukey, Cross, Dexter, Donnelly, Dunlap, Dutremble, Foster, Gerry, Gieringer, Gooley, Honey, Jones SL, Jones SA, Joy, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Lemke, Lemont, Lindahl, Lovett, Mack, Marvin, McElroy, Meres, Murphy, Nickerson, O'Neal, Ott, Paul, Pinkham RG, Pinkham WD, Plowman, Savage, Sirois, Snowe-Mello, Spear, Stedman, Tobin, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Belanger IG, Fisk, Jabar, Joyce, Joyner, MacDougall, Treadwell.

Yes, 75; No, 69; Absent, 7; Excused, 0.

75 having voted in the affirmative and 69 voted in the negative, with 7 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-395) on Bill "An Act to Permit Forest Fire Wardens and Forest Rangers to Carry Weapons" (H.P. 472) (L.D. 643)

Signed:

Senators: KILKELLY of Lincoln

CASSIDY of Washington

Representatives: BUNKER of Kossuth Township

SAMSON of Jay

VOLENIK of Brooklin

SHIAH of Bowdoinham

CROSS of Dover-Foxcroft

DEXTER of Kingfield

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

Signed:

Senator: PARADIS of Aroostook

Representatives: LANE of Enfield

GOOLEY of Farmington

BAKER of Dixfield

McKEE of Wayne

Was read.

Representative BUNKER of Kossuth Township 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 later today assigned.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Extend the Waiting Period for Obtaining a Divorce" (H.P. 635) (L.D. 860)

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

MADORE of Augusta

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-403) on same Bill.

Signed:

Representatives: NASS of Acton

WATERHOUSE of Bridgton

PLOWMAN of Hampden

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. The effort of the minority here is just to recognize what we think is a problem and our desire to bring it to the House. The amended version does call for a study committee. The problem basically is, at least for three of us, that we would like to bring to your attention is, there is many items in the press indicating that our no-fault divorce system may be lacking. It isn't producing the results that are helpful to families. The problem to come before the Judiciary Committee is it is costing us thousands of dollars in untold grief among the citizenry of this state. I think it at least needs to be examined and brought to your attention. We don't have a lot of good answers to the problem at this point. Our effort here is simply to bring it to your attention and realize, I hope to encourage you to realize, that it needs legislative attention and it needs at least a study committee, and that is our effort at this point.

Specifically, the original bill asks for a six month waiting period before serving a summons relative to divorce. We have added wording to recognize that in cases where a protection order is issued, that this six month waiting period would not be in effect. Again, as I said, we have asked for a staff study of this issue. Again, our concern is that there is enough writing out there in the press and enough questions being asked about our no-fault divorce system, both in this state and elsewhere that we want to bring that to your attention. We don't have answers. We simple say to you at this time that we think you ought to begin to think about something different. Thank you.

The Chair ordered a division on the motion to accept the Majority "**Ought Not to Pass**" Report.

A vote of the House was taken. 74 voted in favor of the same and 36 against, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Natural Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Facilitate Removal of Certain Licensed Overboard Discharges" (H.P. 653) (L.D. 906)

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

NICKERSON of Turner
MERES of Norridgewock
FOSTER of Gray

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-393) on same Bill.

Signed:
Representative: DEXTER of Kingfield
Was read.

On motion of Representative ROWE of Portland the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-409) on Bill "An Act to Provide Funding for Mental Health Services for Homeless Shelters" (H.P. 660) (L.D. 913)

Signed:
Senators: PARADIS of Aroostook
LONGLEY of Waldo
Representatives: MITCHELL of Portland
BROOKS of Winterport
FULLER of Manchester
KANE of Saco
PIEH of Bremen
QUINT of Portland
BRAGDON of Bangor
SNOWE-MELLO of Poland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-410) on same Bill.

Signed:
Senator: MITCHELL of Penobscot
Representatives: LOVETT of Scarborough
JOYNER of Hollis

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

Divided Report

Majority Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-392) on Bill "An Act to Expand Recycling through Reduced Burning" (H.P. 703) (L.D. 967)

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

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

Signed:
Representatives: DEXTER of Kingfield
NICKERSON of Turner

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-392) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-394) on Bill "An Act to Require Labeling on Genetically Engineered Food" (H.P. 790) (L.D. 1078)

Signed:
Senator: KILKELLY of Lincoln
Representatives: SAMSON of Jay
VOLENIK of Brooklin
SHIAH of Bowdoinham
BAKER of Dixfield
McKEE of Wayne
CROSS of Dover-Foxcroft

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

Signed:
Senators: PARADIS of Aroostook
CASSIDY of Washington
Representatives: BUNKER of Kossuth Township
LANE of Enfield
GOOLEY of Farmington
DEXTER of Kingfield

Was read.

Representative BUNKER of Kossuth Township 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 later today assigned.

Divided Report

Majority Report of the Committee on **Natural Resources** and the Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-396) on Bill "An Act to Create a Permanent Funding Source for the Saco River Corridor Commission" (H.P. 850) (L.D. 1155)

Signed:
Senators: TREAT of Kennebec
NUTTING of Androscoggin
BUTLAND of Cumberland
RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset
Representatives: SHIAH of Bowdoinham
BULL of Freeport
COWGER of Hallowell
JONES of Greenville
McKEE of Wayne
DEXTER of Kingfield
NICKERSON of Turner
MERES of Norridgewock
TRIPP of Topsham

TUTTLE of Sanford
GREEN of Monmouth
ROWE of Portland
MORGAN of South Portland
SPEAR of Nobleboro
CIANCHETTE of South Portland
GAGNON of Waterville
LEMONT of Kittery
FOSTER of Gray

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

Signed:

Representative: BUCK of Yarmouth

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-396) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-404) on Bill "An Act to Require the Release of the Results of an HIV Test to an Emergency Services Worker Who Was Possibly Exposed" (H.P. 1000) (L.D. 1392)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

Representatives: THOMPSON of Naples
JABAR of Waterville
MAILHOT of Lewiston
PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-405) on same Bill.

Signed:

Representatives: WATSON of Farmingdale
ETNIER of Harpswell
POWERS of Rockport

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-404) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

Divided Report

Majority Report of the Committee on **Business and Economic Development** on Bill "An Act to Limit Indemnification in Construction Contracts" (H.P. 1179) (L.D. 1670) reporting that it be referred to the Committee on **Judiciary**.

Signed:

Senators: JENKINS of Androscoggin
MacKINNON of York
RAND of Cumberland

Representatives: VIGUE of Winslow
BODWELL of Brunswick
MURPHY of Kennebunk

FARNSWORTH of Portland
SIROIS of Caribou
SHANNON of Lewiston
MacDOUGALL of North Berwick
MACK of Standish

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

Signed:

Representatives: CAMERON of Rumford
WRIGHT of Berwick

Was read.

On motion of Representative VIGUE of Winslow the Majority Report was accepted, the Bill was referred to the Committee on **Judiciary** and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**" on Bill "An Act to Appropriate Funds for the Education Research Institute" (H.P. 1298) (L.D. 1841)

Signed:

Senators: MICHAUD of Penobscot
CLEVELAND of Androscoggin
BENNETT of Oxford

Representatives: KERR of Old Orchard Beach
LEMAIRE of Lewiston
WINSOR of Norway
KNEELAND of Easton
POULIN of Oakland
BERRY of Livermore
STEVENS of Orono
TOWNSEND of Portland

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

Signed:

Representatives: MARVIN of Cape Elizabeth
OTT of York

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "**Ought to Pass**" Report and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 64) (L.D. 183) Bill "An Act to Require the Department of Inland Fisheries and Wildlife to Provide Transportation Tags with Big Game Hunting Licenses" Committee on **Inland Fisheries and Wildlife** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-187)

(S.P. 254) (L.D. 823) Bill "An Act to Establish an Outdoor Recreation Council" Committee on **Inland Fisheries and Wildlife** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-186)

(S.P. 269) (L.D. 877) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify the Process for Inclusion of a Competing Measure Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-115)

(S.P. 307) (L.D. 1015) Bill "An Act to Restore Needed Positions at the Augusta Mental Health Institute and the Bangor Mental Health Institute" (EMERGENCY) Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-191)

(S.P. 318) (L.D. 1058) Bill "An Act to Require Legislative Review of Any Proposed Interstate Agreement Related to the Atmospheric Transport of Ozone" Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-189)

(S.P. 359) (L.D. 1218) Bill "An Act to Expand the Harassment Laws" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-185)

(S.P. 416) (L.D. 1337) Bill "An Act to Amend the Laws Relating to Education" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-188)

(S.P. 424) (L.D. 1345) Bill "An Act to Amend the Public Accountancy Laws" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-194)

(S.P. 450) (L.D. 1424) Bill "An Act to Allow ATV Use on Public Lands Not Specifically Designated as Primitive-use Land" (EMERGENCY) Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-192)

(H.P. 1043) (L.D. 1460) Bill "An Act Requiring the Department of Education to Perform Annual Cost-benefit Analysis of Special Education Programs in the State" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**"

(H.P. 1058) (L.D. 1490) Bill "An Act Allowing Appellate Review by an Aggrieved Contemnor" Committee on **Judiciary** reporting "**Ought to Pass**"

(H.P. 1064) (L.D. 1502) Bill "An Act to Enable Victims to Benefit from the Profits from Crimes" Committee on **Judiciary** reporting "**Ought to Pass**"

(H.P. 14) (L.D. 39) Bill "An Act to Clarify the Authority of County Commissioners to Close Roads for Winter in the Unorganized Territories" (EMERGENCY) Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-417)

(H.P. 727) (L.D. 991) Resolve, to Address Issues Raised by the Select Committee to Study Rate Increases in Nursing Homes Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-415)

(H.P. 734) (L.D. 998) Bill "An Act to Amend the Certificate of Need Laws" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-414)

(H.P. 974) (L.D. 1354) Bill "An Act to Transfer the Responsibility for the Certification of Batterers' Intervention Programs to the Department of Corrections" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-406)

(H.P. 1082) (L.D. 1519) Bill "An Act to Strengthen Maine's Search and Rescue Capabilities" Committee on **Marine Resources** and Committee on **Inland Fisheries and Wildlife** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-413)

(H.P. 1111) (L.D. 1554) Bill "An Act to Eliminate Inconsistencies and Unnecessary Duplication Regarding the Training and Certification of Individuals Who Enforce Land Use Regulations" Committee on **Natural Resources** reporting

"**Ought to Pass**" as amended by Committee Amendment "A" (H-418)

(H.P. 1128) (L.D. 1584) Bill "An Act Regarding Confidentiality of Information Concerning Residents of Certain Facilities" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-412)

(H.P. 1156) (L.D. 1620) Bill "An Act to Amend the Laws Regarding Intervenor Status for Foster Parents in Certain Cases of the Department of Human Services" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-411)

(H.P. 1174) (L.D. 1651) Resolve, Directing the Department of Environmental Protection to Study and Make Recommendations on the Establishment of a Motor Vehicle Inspection and Maintenance Program to Meet the Requirements of the Federal Clean Air Act (EMERGENCY) Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-391)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 12, 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. 422) (L.D. 1343) Resolve, Establishing a Blue Ribbon Commission to Study the Effect of Government Regulation on Small Businesses in Maine (EMERGENCY) (C. "A" S-183)

(H.P. 270) (L.D. 334) Resolve, to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to an Annual Report Card on Poverty

(H.P. 1201) (L.D. 1701) Bill "An Act to Promote Economic Independence for Low-income Families"

(H.P. 1224) (L.D. 1736) Bill "An Act to Register New Property for the Thorncrag Bird Sanctuary with the Department of Inland Fisheries and Wildlife"

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

ENACTORS

Emergency Measure

An Act to Amend the Laws Regarding the Expanded Archery Deer Hunting Season (H.P. 28) (L.D. 53) (C. "A" H-318)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1997-98 (H.P. 1193) (L.D. 1692) (C. "A" H-312)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and

0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish the Commission to Examine Rate Setting and the Financing of Long-term Care Facilities (H.P. 486) (L.D. 657) (C. "A" H-301)

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

On motion of Representative KONTOS of Windham, tabled pending final passage and later today assigned.

Emergency Measure

Resolve, to Establish a Task Force to Determine the Tuition Rates of a Receiving School for a Student from Another School District (H.P. 632) (L.D. 857) (C. "A" H-305)

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

On motion of Representative KONTOS of Windham, tabled pending final passage and later today assigned.

Emergency Measure

Resolve, to Ensure Quality Care to Residents of Nursing Facilities through the Establishment of a Task Force on Minimum Staffing (H.P. 828) (L.D. 1133) (C. "A" H-304)

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

On motion of Representative KONTOS of Windham, tabled pending final passage and later today assigned.

An Act to Impose a Surcharge on Documents Recorded in a Registry of Deeds to Fund Preservation of Registry Documents (S.P. 47) (L.D. 157) (C. "B" S-94)

An Act to Provide That Students Receiving Any Services from a School Be Counted as Students for Purposes of State Aid (H.P. 144) (L.D. 187) (C. "A" H-321)

An Act to Guarantee That Real Estate Taxes Are Paid (H.P. 242) (L.D. 306) (C. "A" H-311)

An Act Regarding the Funding of Search and Rescues by the Department of Inland Fisheries and Wildlife (H.P. 274) (L.D. 338) (C. "A" H-315)

An Act to Amend the Laws Regarding Snowmobile Registration (S.P. 125) (L.D. 404) (C. "A" S-175)

An Act to Revise Judicial Separation (S.P. 128) (L.D. 407) (C. "A" S-171)

An Act to Provide for State and Federal Criminal Record Checks on Educational Personnel in the State (S.P. 174) (L.D. 503) (S. "A" S-169 to C. "A" S-127)

An Act to Ensure Public Safety and Proper Allocation of Liability for Gas Pipelines (H.P. 388) (L.D. 533) (C. "A" H-298)

An Act to Amend the Mobile Home Park Laws Regarding Sales of Homes (H.P. 439) (L.D. 589) (C. "A" H-299)

An Act to Clarify the General Powers of Attorney (H.P. 508) (L.D. 699) (C. "A" H-297)

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

An Act to Amend the Adoption Laws Relating to Consent and Forms for Surrender and Release (S.P. 257) (L.D. 826) (C. "A" S-170)

An Act to Authorize Corporate Officers to Represent Their Corporation in Certain Civil Actions in District Court (H.P. 602) (L.D. 827) (C. "A" H-296)

An Act Regarding the Obligation of the State to Fund Adult Education (H.P. 629) (L.D. 854) (C. "A" H-306)

An Act to Include Incorporated Fire Departments Recognized by Any Authority Created by Statute within the Protection of the Maine Tort Claims Act (S.P. 287) (L.D. 938) (C. "A" S-172)

An Act to Amend the Hunting Laws As They Pertain to Antlerless Deer (H.P. 686) (L.D. 950) (C. "A" H-317)

An Act to Make Allocation for Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 1998 (H.P. 744) (L.D. 1008) (C. "A" H-261)

An Act to Clarify the Timber Trespass Laws (S.P. 348) (L.D. 1167) (C. "A" S-173)

An Act Requiring Progress Reports for Mapping Significant Wildlife Habitat (H.P. 1088) (L.D. 1531) (C. "A" H-275)

An Act to Encourage Employee Stock Ownership (H.P. 1197) (L.D. 1697)

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

An Act Directing the Department of Human Services to Submit an Annual Report on Children in Foster Care and on Adoption of Children in the Care and Custody of the Department (H.P. 738) (L.D. 1002) (C. "A" H-303)

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

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

On further motion of the same Representative, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed as amended.

On further motion of the same Representative, the rules were suspended for the purpose of further reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-303) was adopted.

The same Representative presented House Amendment "A" (H-408) to Committee Amendment "A" (H-303) which was read by the Clerk.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. This amendment does nothing to the substance of the bill. It simply allocates the language to the Maine Revised Statutes.

House Amendment "A" (H-408) to Committee Amendment "A" (H-303) was adopted.

Committee Amendment "A" (H-303) as amended by House Amendment "A" (H-408) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-303) as amended by House Amendment "A" (H-408) thereto in non-concurrence and sent up for concurrence.

An Act to Clarify Requirements Pertaining to the Maine Certificate of Need Act (H.P. 767) (L.D. 1044) (C. "A" H-302)

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

On motion of Representative KONTOS of Windham, was set aside.

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

An Act to Reestablish the State Compensation Commission (H.P. 999) (L.D. 1391) (C. "A" H-309)

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

On motion of Representative KONTOS of Windham, was set aside.

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

An Act to Authorize Shellfish Management Committees to Determine Fees for Clam Licenses (H.P. 1292) (L.D. 1837)

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

On motion of Representative CHARTRAND of Rockland, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Monday, May 12, 1997.

An Act to Prevent Discrimination (S.P. 338) (L.D. 1116)

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

On motion of Representative KONTOS of Windham, was set aside.

The same Representative requested a roll call on passage to be enacted.

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 Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 160

YEA - Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Cameron, Carleton, Chartrand, Chick, Cianchette, Colwell, Cowger, Davidson, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Lindahl, Mailhot, Marvin, Mayo, McAlevey, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neil, Ott, Paul, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, Usher, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger DJ, Berry DP, Bragdon, Buck, Bumps, Bunker, Campbell, Chizmar, Clark, Clukey, Cross, Desmond, Dexter, Donnelly, Driscoll, Foster, Gerry, Gieringer, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lovett, Mack, Madore, McElroy, Meres, Murphy, Nass, Nickerson, O'Neal, Pendleton, Pinkham RG, Pinkham WD, Plowman, Poulin, Richard, Sanborn, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Taylor, True, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Belanger IG, Fisk, Gooley, Jabar, Joyner, MacDougall, Treadwell.

Yes, 82; No, 62; Absent, 7; Excused, 0.

82 having voted in the affirmative and 62 voted in the negative, with 7 being absent, the Bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

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

The Chair laid before the House the following item which was tabled earlier in today's session:

House Divided Report - Committee on **Appropriations and Financial Affairs** - (11) members "**Ought to Pass**" - (2) members "**Ought Not to Pass**" on Bill "An Act to Appropriate Funds for the Education Research Institute" (H.P. 1298) (L.D. 1841) which was tabled by Representative TOWNSEND of Portland pending her motion to accept the Majority "**Ought to Pass**" Report.

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

Representative LEMKE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative LEMKE: Madam Speaker, Men and Women of the House. To anyone who may respond, what is the Education Research Institute and what does it do?

The SPEAKER: The Representative from Westbrook, Representative Lemke has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Madam Speaker, Ladies and Gentlemen of the House. The Research Institute is an organization that is based at Orono, but it uses a lot of telecommunications and infrastructure around the state. It is a state-wide operation and it is really very fascinating and I think extremely beneficial investment. You have a lot of statisticians and a lot of good data and when we, as a Legislature, or other entities in the state have a problem and they really have a really good solid answer to their question, they can turn to this research institute and have them do the number crunching for it. I, as you know, have experienced a lot of frustration at times during the years that I have served here and a lot of that is due to the fact that we don't have the time to explore the question and find a good solution to it. We don't have the data. We make decisions on a whim or a hunch or a best guess. This is one mechanism where we can turn to them and say this is our problem and please do the research for us and come back and let us know what the truth is. It is very sophisticated and very accurate and, I think, very worthy of our support. I would encourage everybody to start using it more.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. A member of that commission is here in the House and I would really like to defer to him. He has all of the information that is necessary.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative McElroy.

Representative MCELROY: Madam Speaker, Ladies and Gentlemen of the House. I have little to add to what the good Representative from Glenburn has already told you. This was a group that was established by the 115th Legislature. All of the major, if I might use this word, stakeholders in education are represented on the steering committee. The information or the data that is supplied by the University of Maine System, both Orono and Southern Maine is supplied under the guidance of the steering committee. The funding for this specific group was left out of the budget this year in kind of a mission of forgetfulness, I guess. We have attempted a number of times to get it back in. In my mind, this group is very essential to the continuation of positive education in Maine. It is unreal to think that we can

move forward in these troubled times without good data in education. We are beyond the years of hit or miss. This \$75,000 supports publications and personnel at both these institutions. You will recall receiving a lot of paper and one document was about an inch thick and it was red and black that you received on your desk that indicated all of the mill rates, the population, etc., that usually goes and gets data from each and every town in the state. You also received a printout for your specific legislative district. To use a cliché that we often hear in testimony, if anyone has any other questions, I am sure the chair would allow me to answer. Thank you very much.

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

The Bill was read once and was assigned for second reading Monday, May 12, 1997.

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.

HOUSE DIVIDED REPORT - Majority (7) "**Ought Not to Pass**" - Minority (6) "**Ought to Pass**" as amended by Committee Amendment "A" (H-337) - Committee on **Legal and Veterans Affairs** on Resolve, Authorizing Robert O'Malley to Sue the State (H.P. 201) (L.D. 254)

TABLED - May 6, 1997 (Till Later Today) by Representative TUTTLE of Sanford.

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

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

The Bill was read once. Committee Amendment "A" (H-337) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

Bill "An Act to Establish Basic Standards and Procedures for Personal Services Contracting by the State" (S.P. 294) (L.D. 945) (C. "A" S-98)

TABLED - May 6, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Motion of Representative DONNELLY of Presque Isle to indefinitely postpone the Bill and all accompanying papers.

Representative AHEARNE of Madawaska 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: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. Just to do a quick refresher, since it has been a few days since we talked about this and we have had a lot of debate and discussion on many other important issues. To bring this back in focus, this was the bill where there was an amendment at one point that has been Indefinitely Postponed that would have required the same type of criteria be applied when we grow state government agencies that we say that there is eight criteria that we think ought to be applied when we are going to contract out services, that we ought to do it when we are going to grow things within state government, too. That way we would do our cost benefit analysis. The debate on it brought up

many good points and probably good reasons to kill the amendment, which were also good reasons to kill the bill.

The good reasons were that it is micromanagement of the department and gives them less flexibility to go ahead and do things that make good sense. The other point, which I think works hand and club with that is that when they do these things, they have to go through the Appropriations Committee and go through the legislative approval process. All we are doing is adding another layer to what might be either more efficient or better delivery of services in the name of who knows what. There was bipartisan discussion on why that amendment should be killed and I would hope that we could look at this bill as unnecessary and do the same to it.

The debate was from the chair of the State and Local Government Committee mentioned that the Appropriations Committee and the Legislature can do these things now and the other one was the former division head of a bureau in a large state government agency, Department of Human Services. As we look at this, I would hope that we would defeat this pending motion and allow for both the flexibility that was requested and to keep the legislative oversight that now occurs. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House. I may pose a question, eventually, back to the Representative from Presque Isle who I just think asked for us to defeat the pending motion, which he may have misspoken or maybe he has had a change of heart. I hope it is the latter because I want to speak strongly in favor of the bill and encourage you to vote against the pending motion of Indefinite Postponement. I need to give you a personal experience why this is an important bill to me. I am one of the cosponsors and gave up a bill that I put in as a request in order to sign onto what I thought was a more comprehensive piece of legislation that accomplished the purposes that I was striving for.

I will tell you my personal example and give you some numbers that I think will help you understand the importance of this particular matter. As you know, I live in Windham and Windham is the location of the Maine Corrections Facility. During the Productivity Task, one of the departments that absorbed a major number of cuts was the Department of Corrections. During that process, the chief executive, by executive order, determined that certain services that had previously been conducted at the correctional center by state personnel who had been highly trained corrections officers to conduct the prerelease program, housed in Windham, was going to be privatized. Here is the problem with that at that stage, not the committee of jurisdiction, not even the full department and certainly not the Appropriations Committee, or this body, had an opportunity to evaluate that particular decision. That may not have been so bad if there were some cost savings and efficiencies achieved by that action. I regret to tell you that that was not the outcome. It began with an executive order that actually changed the way this particular program was going to be delivered in state government.

As it turned out, there was an RFP drafted. An RFP was developed. Two nonprofit entities bid on that RFP. One was awarded the contract for two years. Here is where it gets even more critical for us, as people with oversight responsibility. Not only did that whole process preclude any legislative oversight, either by the committee of jurisdiction or by the Appropriations Committee, but we then had the state enter into a contract at a cost per day for inmates in the prerelease program with personnel we had no oversight over and a contract that nobody other than the Bureau of Purchasing had reviewed. I suggest to you that there are often times that personnel contracts entered

into that have not only budget implications, but policy implications, as was the case at the correctional center in my district.

Here is the sad part of the bottom line and why we need this kind of legislation. The per diem cost for the inmates that were to be provided for in this program and the total number of inmates that were designed to be served under the terms of the contract do not come anywhere close to the efficiencies that we had when the department operated this program. None of the reasons why we talk about contracting out for private services could be substantiated by anybody that I talked to. Whenever you get into a department in which you have very little experience it forces you to do a lot of homework. I know very little about the procedures already in policy in terms of contracting out. In the process of my investigation, I did have to learn a lot. There are gaps in the way we do this part of the state's business. This legislation addresses those gaps.

Here is what I am going to tell you. Despite what any of you might think about the efficiencies and cost savings of privatizing certain projects and programs in state government, the contract that we now have for this prerelease program costs the state more money than it did when it was housed and operated by correctional personnel and it serves fewer people. It doesn't accomplish any of the things that we, on the best day, think contracting out should accomplish. I am giving you a specific example from my district, my experience and my investigation that I hope will convince you to join me in defeating the pending motion. This is a tremendously important piece of legislation. It does what all of us on both sides of the aisle, regardless of our particular philosophy about the role of government, it does what we want it to do. We are the policy makers, we are the people that ought to have oversight of the state budget and the way state tax dollars are spent in the private sector. I am telling you, this bill carefully worked by the committee of jurisdiction, helps us get closer to reaching that goal. I can't urge you more strongly than I have just attempted to to vote with me to oppose the pending motion of Indefinite Postponement. I thank you.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative BUCK: Madam Speaker, Men and Women of the House. On page 2 of the bill under conditions for cost savings, item E, lines 41-43, it says the potential for future economic risks to the state from potential rate increases or work interruptions by the contractor is minimal. Could someone explain to me what that means? The way I read it it seems to say that if you contract through the state, you are going to guarantee that there will be no work interruptions. I read that to mean that there will be no strikes and why is it in there and what is the purpose of the whole restriction? Thank you.

The SPEAKER: The Representative from Yarmouth, Representative Buck has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Madam Speaker, Men and Women of the House. As everyone knows this bill has been before us in previous sessions. I must say that the largest problem that I had with the bill in previous sessions has been eliminated from the bill through the amendment this time. However, I still think that one of the effects of this bill is going to unduly hinder contracting out when such contracting out is appropriate. There are basically two sections to this bill. The first section talks about when contracts can be contracted out and it begins by saying that you can contract out when any of the

following conditions are met. I really have no problem with that. There were five or six or seven of them. The second section of the bill, which is entitled conditions, cost savings, personal services contracting is permissible to achieve actual cost savings when all of the following are met, and then you have nine or ten different conditions all of which must be met. Some of them are common sense. Some of them are already written into law and repeated here. Others, I think, may create a hindrance, an obstacle, into contracting even when it is otherwise a good idea. For instance, you must show that the contracting agency clearly demonstrates that the proposed contract would result in actual cost savings. Language like that goes though this giving fodder to anybody who wishes to object that this and that was not particularly clearly demonstrated. It is the little words in all of this that cumulatively, I believe, create an obstacle to personal services contracting that limits inappropriately, in my opinion, the states options to do it. For that reason, I would urge you to support the motion to Indefinitely Postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Ladies and Gentlemen of the House. Just so you have a sense of the scope of what we are talking about, the committee heard that nearly \$100 million of taxpayer money is expended on private contracts. Why would any of you, even those of you have the largest advocates for privatizing functions of state government and who may actually be on the one end of the more fiscally conservative end of the spectrum in this body, oppose mechanisms to protect the oversight or the way the state spends over \$100 million? That is what this bill provides, those kinds of guidelines, that kind of oversight. I am amazed that we don't have 150 people voting in strong support of this measure regardless of what end the political spectrum you come from. This particular piece of legislation does set up criteria, that is absolutely appropriate particularly if these contracts are not going back to committees of jurisdiction. In your own committees when we prepare the state budget, we scrutinize department costs that are far less than what we are talking about with some of these contracts. I urge you to defeat the pending motion. Thank you.

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

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. I am one of those people who is often concerned about the requirements that we put on state agencies. However, I would point out that I did talk to the director of purchases about this bill and he was very comfortable with what is in the bill as well as the first amendment. I would also suggest that this bill would also establish standards for our State Legislature as we make public policy to make sure we also consider these same issues as we look at who we are going to include as state employees and who we are going to contract out for. I think it is an important piece of legislation and I urge your "Ought Not to Pass" on the Indefinitely Postpone vote.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. The question that I posed several minutes ago has not been answered, but I would like to respond to the Representative from Windham when she asked the question, why would we not be supporting this when we are talking about the state spending \$100 million on the project? That is a good question. The question that I would ask is if it is such a good idea to have these conditions when we are going to privatize and we are talking about \$100 million, why wasn't it a good idea when my amendment was presented when we are talking about hundreds of millions of dollars in terms of our state

agencies going though the same criteria. There seems to be a double standard here and I don't understand it.

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

ROLL CALL NO. 161

YEA - Barth, Belanger DJ, Bigl, Bragdon, Buck, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Giering, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lindahl, Lovett, Mack, Marvin, McElroy, Murphy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry DP, Berry RL, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Madore, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

ABSENT - Belanger IG, Fisk, Joyner, MacDougall, Pendleton, Tobin, Treadwell, Winglass.

Yes, 49; No, 94; Absent, 8; Excused, 0.

49 having voted in the affirmative and 94 voted in the negative, with 8 being absent, the Bill and all accompanying papers were not indefinitely postponed.

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

Bill "An Act to Allow Partially Consumed Bottles of Wine to be Taken from Restaurants" (H.P. 997) (L.D. 1389) (C. "A" H-308) TABLED - May 6, 1997 (Till Later Today) by Representative GAGNE of Buckfield.

PENDING - Passage to be Engrossed.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Madam Speaker, Men and Women of the House. I have some concern about this bill. It came out of committee on a very split vote, 7 to 6 "Ought Not to Pass." However, it came through here "Ought to Pass." I would request a division.

Representative GAGNE of Buckfield requested a division on passage to be engrossed.

The Chair ordered a division on passage to be engrossed.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I would encourage you to support passage to be engrossed. Most members of the committee on Legal and Veterans Affairs have come to me and recommended and that they reconsider their votes against the bill in favor. This issue was voted on when five members of the committee, and other committees, and as many of you know during the last couple of weeks it is hard to gain consensus when a number of members are at other committees. If the vote was taken today, it would be a majority report of the committee. I think the bill is a common sense matter that needs passage. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. I rise and ask you to support the pending motion. In committee one of the things that we heard when a bottle of wine is purchased, you pay for it and sometimes these bottles of wine can be very expensive so you probably wish to consume it all and then you may go out in an inebriated state. It was the feeling that if you could at least take home a partial bottle of wine, which will be sealed by the owner, you will not have an open bottle of wine in your car. This would also help in not having people driving under the influence and not having people wasting their money and also perhaps encouraging people to try some unique wines that can only be purchased by a bottle. Thank you.

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

Representative CAMERON: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative CAMERON: Madam Speaker, Men and Women of the House. To anyone who cares to answer, unless I am mistaken, we also have a law on the books, which I personally think is very inappropriate that we hold bartenders accountable for people who leave the premises in a state unfit to drive. I guess I am wondering where this fits in with that build. The previous speaker just said that the bottle would have to be sealed, but if that person is already in a state that is inappropriate from them to drive if they have had three or four bottles of wine or whatever the number is, where does this bill fit with that one? Are we setting the restaurants up for a problem here saying that yes, you can take this when we are saying to them that this person is not in appropriate condition, that you can't serve them anymore. I am a little confused and I would appreciate some clarity on that.

The SPEAKER: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I think this is a big jump from who the driver is and who consumed the wine and how much wine was consumed. This doesn't mean that the personal responsibility of the person sitting at the table is lessened and it doesn't mean the bartender's liability is lessened. It just means that if you sat down to have a big celebration and you bought a \$45 bottle of wine that you would probably have a glass of wine with your dinner and then want to take the bottle home rather than trying to finish the \$45 bottle of wine before you went home, it doesn't mean that the driver and the person walking out the door with the bottle are the same people. You probably still have a designated driver. I think this is a huge jump, but I think that by saying that someone who goes out and has a nice dinner and thanks for spending, but by the way, no, you can't take that. You are really doing a disservice. People can drive around with wine all they want. You can stop at a 7-Eleven and buy wine and drive around with it open in your car. These aren't the kind of people that we are talking about taking home a bottle of field wine. It is a totally different idea. You are not going to have people going in to have a big dinner so that they can grab a bottle of wine, drink a little bit of it and go out to the car so they can get drunk. It doesn't even make sense. I hope that answers the question.

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

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I wasn't involved to the committee on this

bill at all, but in reading the amendment it appears that there are three conditions that the restraint has to comply with in order to allow somebody to exit with one of these bottles. They are, first, that the person who requests the service is not already inebriated as much as somebody can't be served an additional drink at a bar or restaurant if the bartender or server thinks that they have had too many, in the same way somebody could not leave with one these bottles if they were observed to have had too many already. In addition the restaurant has to seal the bottle and put it in some sort of bag or container that they would have available for that. The restaurant makes the final decision in any case of who does this and with what. It appears to not put any more liability on servers than is already there now. They still have to be careful of anybody in their premises that is drinking too much. This might, in fact, as some of the speakers have already said, the incentive for people to drink less because they know they can take that fine bottle home with them later and enjoy it at a safer place than in the restaurant before they have to drive or be in a car. Thank you.

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

Representative MUSE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative MUSE: Madam Speaker, Men and Women of the House. I do a great deal of training for bartenders, waiters and wait staff and I wonder if one of the attorneys in the room could answer the question, if a bar serves an individual and they go out and drive and are involved in an accident, there is a liability issue there. Having the patron take the bottle of wine out of the facility, have they not, in fact, served that individual and if, in fact, the individual chooses to consume that wine in their vehicle, is involved in an accident and tests show, in fact, that they are intoxicated, does not the liability then come back to the server again?

The SPEAKER: The Representative from South Portland, Representative Muse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Men and Women of the House. In answer to the Representative's question, according to the questions that were asked by the committee, the responsibility goes on the individual.

The SPEAKER: A division has been ordered. The pending question before the House is Passage to be Engrossed. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 88 voted in favor of the same and 32 against, the Bill was passed to be engrossed as amended and sent up for concurrence.

An Act Concerning Applied Aquaculture Research in the Coastal Waters of the State (EMERGENCY) (H.P. 584) (L.D. 775) (C. "A" H-249)

TABLED - May 6, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 130 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Eliminate the Need for a Retail Seafood License to Sell Prepared Seafood (EMERGENCY) (H.P. 920) (L.D. 1263) (H. "A" H-259 to C. "A" H-234)

TABLED - May 6, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Amend the Law Concerning Municipal Review and Regulation of Subdivisions (MANDATE) (S.P. 258) (L.D. 866) (C. "A" S-129)

TABLED - May 6, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

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. 113 voted in favor of the same and 20 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

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

TABLED - May 6, 1997 (Till Later Today) by Representative BOUFFARD of Lewiston.

PENDING - Passage to be Enacted.

On motion of Representative BOUFFARD of Lewiston, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed as amended.

On further motion of the same Representative, the rules were suspended for the purpose of further reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-137) was adopted.

The same Representative presented House Amendment "A" (H-389) to Committee Amendment "A" (S-137) which was read by the Clerk.

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

Representative BOUFFARD: Madam Speaker, Men and Women of the House. I am asking for this amendment because if our state, Vacationland, which likes to be very friendly to our tourists friends, I believe that when we pass a law that is going to give them a penalty for not doing something that they are not familiar with, that we should warn them. The penalty for the traffic infraction is a fine of not less than \$25 nor more than \$500. I would hate to see that our friends coming in from other states not be warned by not giving them proper education. Thank you.

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

Representative LINDAHL: Madam Speaker, Men and Women of the House. What this amendment does is it puts a \$400,000 fiscal note on the bill we passed and I assume that would probably be in order to kill it. Thank you.

Representative DRISCOLL of Calais moved that House Amendment "A" (H-389) to Committee Amendment "A" (S-137) be indefinitely postponed.

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

Representative BOUFFARD: Madam Speaker, Men and Women of the House. The idea of this amendment is to be able to educate the people that not only will they be fined now for not having their headlights on while their windshield wipers are going, but if they don't happen to be wearing their seatbelt, which it is a passive law in the State of Maine, automatically they will be fined for that infraction. Thank you.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Madam Speaker, Ladies and Gentlemen of the House. In comment to my good friend and legislator from Lewiston, this is really not a problem. I go to Florida a couple times a year and they have this headlight law in Florida. You know Florida, they have tons of tourists. It is just not a problem. I really urge you to vote against this amendment. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I agree with Representative Bouffard. I think this is a good informational measure. We have other signs on the roadway at the toll booths asking people to test their brakes. We also have one for inclement weather. I think it would be a small thing to do to add this on. I think it is very important seeing how there is a large fine. Very few people know about it. I will tell you the truth. I didn't know anything about it until we debated this subject. I think it is a good measure. If it has a fiscal note, that is one thing, but aside from that I think it is informational and it should be used.

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

Representative CHARTRAND: Madam Speaker, Men and Women of the House. As in the previous debate on this bill, we made it clear that it is currently the law that one has to have their headlights on during inclement weather. This will not change that. It is not like a lot more people will be stopped or need to know that in inclement weather they should turn their headlights on. It only defines that a little more clearly for officers by saying that that would be the kind of weather that when somebody has their wipers operating continually they would turn their headlights on. I don't think we have to inform people to turn their wipers or headlights on in inclement weather by signs on the road. If they turn their wipers on, they should also turn their headlights on. That is all there is to it. Many people do it now. This will make it a little clearer for officers that want to enforce the existing statutes. I don't think we need a set of very expensive signs. The state budget is already tight enough. I don't think we need the price that this will cost us for something that will be well distributed through newspapers even now as we pass this. I have noticed some articles in the paper already. It is going to be clearly made known, the minor changes in the existing law. I would urge you to vote to Indefinitely Postpone the amendment. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I don't want to belabor this. We will get on with the motion. I hope you will vote against the pending motion. I would just like to make one comment that the previous speaker said that people should know to turn on their

headlights. People should also know to slow down in inclement weather and yet we have signs that direct them to do that.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. As I have traveled around and I think the closest state to us that has this type of bill, windshield wipers during inclement weather and lights, is the State of New York, I believe, is the closest one to us. They have many signs on the throughway and on their roads. When I brought this bill up two years ago and it went down in the Labor Committee, the Transportation Department was generous and they did provide four signs for this state. As I said before, one in Houlton, one in Kittery, one over near Gorham, New Hampshire and one in Calais, I believe. Those are the only signs that notified people. The only reason I would like to have signs is if we have these on the books and an out-of-state driver has an accident, there is some question about the liability on his insurance if he is not following the rules of our road, if we haven't notified them. That is the only reason I am really interested in having signs.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative COWGER: Madam Speaker, Men and Women of the House. To anyone who cares to answer, I just took a look at the amendment and it appears there is a substantial fiscal note on this amendment that requires signs to be erected every 10 miles on major state roads. Am I interpreting this amendment correctly?

The SPEAKER: The Representative from Hallowell, Representative Cowger has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative BOUFFARD: Madam Speaker, Men and Women of the House. You read well. It is every 10 miles.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, Men and Women of the House. It appears to me that this is an excessive measure to require signs to be posted every 10 miles. I would urge you to vote in support of the pending motion and Indefinitely Postpone this amendment.

The SPEAKER: 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: Madam Speaker, Men and Women of the House. We also passed a law a couple of years ago that says that fines will double when you are going through where construction is being done. That is warning people that you are going to double their fines. There is nothing in this state except those four signs that are going to warn people that they are going to be fined for not having their headlights on during inclement weather. Madam Speaker, I request when the vote be taken it be taken by a roll call.

Representative BOUFFARD of Lewiston requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-389) to Committee Amendment "A" (S-137).

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

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

Representative **VOLENIK**: Madam Speaker, Men and Women of the House. If this amendment requires a sign every 10 miles, just looking at my map and I won't use this as a prop, Route 166A runs from a portion of Castine to another portion of Castine and it is well under 10 miles in length. This seems that it would be very inappropriate. If we reject this motion, I have no doubt that the Transportation Department will in one way or another inform motorists of the correct procedure.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative **LOVETT**: Madam Speaker, Ladies and Gentlemen of the House. In my other life, I am very active in highway safety, both on a national level and a state level. I would just like to remind you that in inclement weather this is a very good safety feature, not only for you driving, but for the other person to see you. I hope you will join me in defeating the motion.

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

Representative **BULL**: Madam Speaker, Men and Women of the House. Just a quick clarification, the board is reading House Amendment (H-373) and I am not sure if that is right because I am looking down here and that seems to be a different amendment.

The **SPEAKER**: The amendment is (H-389).

The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative **WHEELER**: Madam Speaker, Men and Women of the House. We take for granted that our driver's license is for granted and it isn't a privilege. That is exactly what it is, is a privilege. It isn't up to the state to list every law that there is on the books. You, as a driver and as a holder of a driver's license, are supposed to know these laws. Thank you. I urge you to Indefinitely Postpone this amendment.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone House Amendment "A" (H-389). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 162

YEA - Ahearne, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Cross, Davidson, Donnelly, Driscoll, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagnon, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones SL, Jones SA, Joyce, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Perkins, Perry, Pieh, Pinkham RG, Plowman, Poulin, Povich, Powers, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, True, Usher, Vedral, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Bouffard, Buck, Clark, Desmond, Dexter, Dunlap, Dutremble, Gagne, Gamache, Gerry, Goodwin, Jones KW, Joy, Kasprzak, Labrecque, Lane, Layton, Mailhot, Pendleton, Pinkham WD, Shannon, Sirois, Taylor, Tuttle, Underwood, Waterhouse.

ABSENT - Belanger IG, Fisk, Joyner, MacDougall, Quint, Treadwell, Vigue.

Yes, 118; No, 26; Absent, 7; Excused, 0.

118 having voted in the affirmative and 26 voted in the negative, with 7 being absent, House Amendment "A" (H-389) to Committee Amendment "A" (S-137) was indefinitely postponed.

Subsequently Committee Amendment "A" (S-137) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-137) in concurrence.

Representative **KERR** of Old Orchard Beach moved that the Bill and all accompanying papers be indefinitely postponed.

The **SPEAKER**: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative **KERR**: Madam Speaker, Men and Women of the House. When I was sent here to Augusta I didn't think we were going to add laws to the books that already exist. In reading this bill, just to share this with you, the current law says that a vehicle located on a way must be equipped with lights as described in Section 1904. Lights must be illuminated during the period of half hour after sunset and half an hour before sunrise and at any time when insufficient lighting or unstable conditions and it goes on and says what those conditions may be, but not limited to, rain, freezing rain and fog that one would have to use their windshield wipers or their lights. As you all know new vehicles that are being made today, not only when you turn your lights, but your windshield wipers go on. I don't think that we can continue to dictate common sense in this chamber. I would urge you to support me in Indefinite Postponement of this bill. We have a law on the books. I think it is adequate and it works. We all know that driving is a privilege and not a right. I would ask you in joining me for Indefinite Postponement of this bill and all its accompanying papers. Thank you.

Representative **DRISCOLL** of Calais 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**: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: Madam Speaker, Men and Women of the House. I reiterate that this makes it easier to enforce the standard under the existing law is somebody being clearly discernible from a distance of 1,000 feet. You tell me about an unenforceable law. You pick somebody out at 1,000 feet and guess how far they are away and see if they are clearly discernible. That is the criteria to summons somebody now. Having the headlights on makes it much more easily enforceable. Also, believe it or not, we had to write a law in this state that people had to drive with their headlights on at night. Thank you.

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

Representative **LEMKE**: Madam Speaker, Men and Women of the House. I had not intended to speak to this issue and I won't. I encourage everyone to follow my lead and vote green.

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

ROLL CALL NO. 163

YEA - Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Brooks, Buck, Bumps, Cameron, Clark, Cross, Davidson, Desmond, Dexter, Dunlap, Dutremble, Farnsworth, Foster, Frechette, Gagne, Gamache, Gerry, Goodwin, Gooley, Jabar, Jones KW, Joy, Joyce, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemke, Lemont, Mack, Meres, Morgan, Nass, Nickerson, O'Neal, O'Neil, Paul, Pendleton, Perkins, Perry, Pinkham WD, Plowman, Poulin, Povich, Richard, Rines,

Samson, Shannon, Sirois, Stanley, Stevens, Taylor, Tessier, Thompson, Tuttle, Underwood, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winsor.

NAY - Ahearn, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Berry DP, Bolduc, Brennan, Bruno, Bull, Bunker, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Donnelly, Driscoll, Etnier, Fisher, Fuller, Gagnon, Gieringer, Green, Hatch, Honey, Jones SL, Jones SA, Kane, Kontos, Lindahl, Lovett, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Murphy, Muse, O'Brien, Ott, Peavey, Pieh, Pinkham RG, Powers, Rowe, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Skoglund, Snowe-Mello, Spear, Stedman, Tobin, Townsend, Tripp, True, Usher, Vigue, Volenik, Watson, Winglass, Wright, Madam Speaker.

ABSENT - Belanger IG, Fisk, Joyner, Lemaire, MacDougall, Quint, Treadwell, Winn.

Yes, 69; No, 74; Absent, 8; Excused, 0.

69 having voted in the affirmative and 74 voted in the negative, with 8 being absent, the Bill and all accompanying papers were not indefinitely postponed.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

An Act to Amend the Veteran's Estate Tax Exemption (H.P. 312) (L.D. 434) (C. "A" H-243)

TABLED - May 6, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative TRIPP of Topsham, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed as amended.

The same Representative presented House Amendment "A" (H-373) which was read by the Clerk.

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

Representative WATERHOUSE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Thank you Madam Speaker. I don't have that amendment in front of me now. Can the presenter of the amendment tell us what it does?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Madam Speaker, Men and Women of the House. The amendment clarifies the eligibility of when the veteran can apply. It doesn't change anything from what it does today. It just clarifies the language, technically.

House Amendment "A" (H-373) and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-243) and House Amendment "A" (H-373) in non-concurrence and sent up for concurrence.

An Act to Clarify the Jurisdiction of the Public Utilities Commission over Telecommunication Utilities' Special Rate Contracts (S.P. 399) (L.D. 1294) (C. "A" S-130)

TABLED - May 6, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and later today assigned.

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-316) - Committee on **Inland Fisheries and Wildlife** on Bill "An Act to Prohibit the Stocking of Alewives in Trip Lake" (EMERGENCY) (H.P. 729) (L.D. 993)

TABLED - May 6, 1997 by Representative UNDERWOOD of Oxford.

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted.

The Bill was read once. Committee Amendment "A" (H-316) was read by the Clerk.

Representative UNDERWOOD of Oxford presented House Amendment "A" (H-387) to Committee Amendment "A" (H-316), which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Underwood.

Representative UNDERWOOD: Madam Speaker, Men and Women of the House. This amendment does nothing but correct an error that was found in the committee bill. Thank you.

House Amendment "A" (H-387) to Committee Amendment "A" (H-316) was adopted.

Committee Amendment "A" (H-316) as amended by House Amendment "A" (H-387) thereto was adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed and sent up for concurrence.

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 6, 1997 by Representative KONTOS of Windham.

PENDING - Passage to be Engrossed.

Representative TRIPP of Topsham presented House Amendment "B" (H-374), which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-126) and House Amendment "B" (H-374) in non-concurrence and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-272) - Committee on **Banking and Insurance** on Bill "An Act to Require Public Insurers to Supply Insurance Data to Schools and Municipalities" (H.P. 603) (L.D. 828)

TABLED - May 6, 1997 by Representative MAYO of Bath.

PENDING - Motion of Representative DAVIDSON of Brunswick to accept the Majority "Ought Not to Pass" Report.

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

Representative SAXL: Madam Speaker, Men and Women of the House. Insurance legislation always involves technical and complicated issues and I hope that you will stay with me as I try to explain why we are opposed to it. It is not as simple as it

seems. This bill allows administrative units to engage in competitive bidding by ensuring that school administrative units have access to their own experience ratings and claims history. The bill requires that insurance provide such information to school administrative units at their request regardless of the identity of the insurers official clients and to the municipalities in which the school unit is located if the municipality so requires. It sounds very simple and it sounds like a sensible thing, but, in fact, it is not.

The reason why it isn't is that when we go out to bid on insurance we try very hard to have a large pool and a pool which lasts over a period of time. The reason for that is the larger the pool, the better your negotiating pattern can be and the more you can include extra items which are of benefit to the pool. The Maine teachers have such a pool. For 50 years they have had 55,000 members. The largest pool in the state. It is a voluntary pool so, currently, anyone who doesn't wish to participate doesn't have to participate. One knows when information in the aggregate, one sees how it goes up and down. The pool has been successful enough so that in this past year the increase to that insurance has been 0 percent. That is really a very successful negotiating pattern.

There are several problems with this and one of those problems is that if the pool breaks up, you will see a lack of stability, that is, that you will see spikes and going up and down. Experiential rating is likely to incur, that kind of problem. The information requested sounds very simple, but once again, it is not. What we want to do is have the risk borne over a large group of people so that one incident or two incidents of catastrophic illness doesn't disrupt the pool. That is why we would prefer that we remain with the plan as it is and that we not disrupt the organization of the current plan. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Madam Speaker, Ladies and Gentlemen of the House. I have seldom risen this session to take an opposite position from our House Chair of Banking and Insurance. However, today I find that is a necessary evil. I would urge this group to not accept the Majority "Ought Not to Pass" and to seriously consider the Minority Report of the committee. The Minority Report places the bill and clarifies that nonprofit hospitals, medical service organizations, insurers or health maintenance organizations are required to provide school administrative units with information concerning their own experience ratings and claims history.

Ladies and gentlemen of the House. We are talking about taxpayer money. We are talking about premiums in excess of \$100 million that are being paid for the health insurance of the active and retired teachers in the State of Maine. This money is either collected on a local level through property tax or comes back to the communities through the GPA. As a former school board member in my community, I can remember when we did attempt to take a look at the entire issue to see whether or not we were receiving a good situation or a good deal and that we are paying the right amount of funds. We were not able, at that time, to receive our experience rating, claims history and the decision was made, rather than to put this whole matter out blind, that we would stay where we were. We still don't know to this day whether we are receiving a good situation or a bad situation.

Access to experience rating and claims history is crucial if we are to have competitive bidding in this area. School districts should be able to make their own decisions on insurance benefits. We do have two rather large trust situations currently operating in the State of Maine. The one sponsored by the Maine Municipal Association and the one sponsored by the Maine School Management Association. Both of these groups

will release their experience rating and claims history when it is requested. The only insurance pool of this nature in the state that will not be the one run by the MEA, Maine Educational Association.

I would like to quote to you, if I may, from a letter written by Leo Martin, who was, up until this week, the interim Superintendent of School in School Union 30, which is in Durham and Lisbon. He is also the former Commissioner of Education. This was written to our committee. He stated, "In order for schools and municipalities to be responsible to both school employees and taxpayers and to properly and efficiently spend state and local tax money, it is very important that a school administrative unit be able to receive its own experience rating and claims history. Without that, it requires somebody who wishes to bid on the insurance for that particular school district to bid blind. They may hit it well and they may hit it poorly."

Last week when we started this issue on a night session and then I tabled it, I had distributed to the members of the House a fact sheet on this particular issue and I would remind you of a couple of things that were on that sheet. Retired teachers will not and I would emphasize, will not, be adversely affected if you vote against the Majority "Ought Not to Pass" Report and accept the Minority Report. Retired teachers are protected by the Retired Teachers Health Insurance Act, which was passed by this Legislature a number of years ago. I would re-emphasize what I said earlier in the debate, that we are talking about \$100 million plus a year in taxpayer funds.

Currently, the MEA trust receives a six-tenths of one percent of the premium to administer the insurance and to administer the trust. They also receive a portion of any experience refunds from Blue Cross and Blue Shield. This has been a closed situation between Blue Cross and Blue Shield and MEA for nearly 50 years and it has been very difficult for the Maine School Management Association and any other insurer to break into this situation. Here again, speaking from experience as a school board member, we fortunately, or unfortunately depending on the side of the issue that you are on, negotiated into a contract language that made it nearly impossible for the insurance in our particular area should go to anyone but the MEA through Blue Cross and Blue Shield as a part of the contract. That type of language is in many school contracts today. I would strongly urge that you vote against the pending motion and accept the Minority Report remembering that we are talking about \$100 million of taxpayer money that the taxpayers have little or no control over the expenditures. Thank you very much.

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

Representative DAVIDSON: Madam Speaker, Men and Women of the House. When we were debating this issue on the committee, I think I will be the first to admit that there are some very good points on the other side of the issue. I am here to put my weight behind the pending motion right now for a number of reasons. Representative Mayo, I would like to echo what he said earlier, who I rarely disagree with, makes some good points. While the numbers may be a bit cloudy, this is \$100 million in taxpayer money. I think the duty of this Legislature from day to day is to figure out how to get the biggest bang for that buck. One of my biggest problems for what we do here from time to time is we take a situation that is working really well for the past 50 years and we will open up a door and throw a grenade in for really no other reason that backs up any other reason than we are doing it right now. Releasing experience ratings by school district, in my mind, only helps the insurers. By providing this information on a district-wide basis, you are opening a huge,

huge door for an opportunity for an insurer to come in and basically cherry pick from district to district.

If you are lucky enough to have a case where, let's say in Bath, where your teachers simply don't get sick, they don't get breast cancer, they don't get in a car accident, God bless you. You are lucky. If this was opened up, your experience rating would be fairly low and your cost would be fairly low. The problem is, there have been cases, like in Oxford Hills, where just a couple of teachers, we are not talking about a lot of people here, just think about your own school districts, it only takes one person to get in a terrible car accident to raise your rates like in Oxford Hills 43 percent. It doesn't matter if you have a history of two, three, five or even 10 years of strong experience rating for that to all go up in smoke. By keeping the pool together for our teachers, for the people that are in the classrooms educating our kids for the people who are retired, what you are doing is allowing them to absorb cases where in Oxford Hills or in Madawaska that someone gets sick. We are all in this together. Many supporters of this bill will say that the plan design is determined by experienced rating. If you go with this bill and you open this up, I would ask you to say why are we all the time, I am a sponsor of one, constantly coming back and putting in mandates. The bottom line is that in Brunswick, Maine, there are certain cases where people are constantly availing themselves to the same services time after time after time. If I was an insurer, I would look real closely at whether or not I wanted to provide coverage for those services. This is coming out of their pockets. I think we have a good system right now. I think it is a great system. I honestly think that you are going to do a huge disservice, not only to the taxpayers of your town, but to your teachers if you come in and you lop off the pin of the grenade and you throw it in there just to do it for no other reason. There is no problems. I think we are getting the lowest rates that we can possibly get.

If your district doesn't want to buy from the MEA, they don't have to. There is no gun to their head. I strongly encourage you to vote for this "Ought Not to Pass" motion and do it for a number of reasons. It is the smart thing to do. It is a smart public policy decision. It isn't about hating teachers and it isn't about wanting to shaft retired teachers. That is not what this is about. There are good intentions behind this bill. It is the wrong public policy decision for us to make here today. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Lemaire.

Representative LEMAIRE: Madam Speaker, Men and Women of the House. I would like to give you a little history about this. It is necessary for everyone to understand that when teachers negotiate a contract, insurance is one of these issues, that the retired teachers go along with that local unit. Whatever happens to that local unit happens to the retired teachers. In SAD 17 when they changed plans and went with New York Life, they were spiked up within three years to 43 percent. Why did this happen? When I went up to the work session the representative of New York Life looked at the committee and said had I known how sick the retired teachers were, we would never have bid this low. That is what this is all about, men and women of the House, the pool protects the integrity of all the people in this group. Once you start separating them out, one catastrophic illness in the retired group or the active group affects the amount you are going to be paying in your local unit.

Let's talk about the taxpayers. We have been protected by this program for a long, long time. Last year we had a 0 percent increase. This year we will have a 0 percent increase. Possibly at the very most, 3 percent next year and possibly less. In the last decade it has never gone over more than 5 percent. Are we talking about MEA here or Blue Cross and Blue Shield? I don't

think so. What we are talking about is 55,000 active and retired teachers who have been in a program that has been cost effective that has protected them. None of this money could go to the employer so it will never impact in that way in the local units.

I urge you to support the Majority Report and I will probably get up again in response to questions from the good Representative across the aisle who is my friend from Bath. I think it is important to remember this program has served its population well. It has also helped the districts to keep these costs low. I do have to say something. One of the fact sheets that came out and it was from my good friend, the Representative from Bath, was that it would not adversely affect the retired teachers. Everything that happens in the local units through active teachers happens to retired teachers. If you have a spike or fluctuation and start breaking up these groups and there are catastrophic illnesses in either one of these groups, that amount goes sky high. Think about it folks, when you have one accident in your car, what happens to your car insurance? In your next bill, everything goes up. In some ways competition is good and competitive bids are good, but not in this case. I urge you to support the pending motion.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Shannon.

Representative SHANNON: Madam Speaker, Men and Women of the House. The debate today centers around a bill, which I sponsored and have been told by many that I bit off an argument with the wrong group for a freshman. I would like to respond to some of the statements that have been made here today. Representative Davidson makes a good point. Perhaps his arguments should be used when we discuss a bill for a single payer or single group insurance policy for everyone in the state because he certainly is right, the more people you cover the lower your rates usually are and the more protected the group is.

This bill is not about that. This bill is about a contractual agreement that was arrived at in Lewiston between its teachers and its school committee in which claims history was a part of the agreement. The subsequent requests for that claims history resulted in a refusal by the MEA to divulge it. Therefore, as this history or perhaps a little longer history will detail, we went forward with a resolution from our school committee to the Maine School Boards Association, which they approved this last October saying that school boards should be entitled to claims history. It is a part of their record and you can find it. This bill is supported by the Maine School Board Association, the Maine School Management Association and the Maine Superintendents of Schools. That is not enough of a reason for you to vote for it. There are other reasons you should vote for it.

One is not just because it is a good idea and it is time to consider this as being good for Maine people. It is because some of the statements made here today about rates not increasing reflect only the fact that the pool has funds that it has built up over years to buy those premiums down so there won't be increases. This is the bargaining power they speak about in keeping their rates low. The reason this bill is here before you today is because it is a fairness issue. Local taxpayers are paying premium dollars into a system over which they have no control. When another company bids this out, if they do not have claims history, you would have to expect that lack of knowledge would cause their bid to be skewed. I certainly would expect it to be skewed. I am not surprised that anyone who bid on this would find a fluctuation of premium over one, two or three years because they did not have claims history upon which to base their bid. I urge you to consider this as a local issue in your own community. The one portion of the school budget that you can't go to the constituency and say that this is the lowest price that

we can get for this part of our budget is the insurance issue. To say that you don't have to participate with MEA if you don't want is very true. However, you still have to live up to your contractual agreement of equal or better. Without claims history that is not going to get bid out at a lower price. I thank you for your time today. I urge you to defeat the pending motion.

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

Representative O'NEIL: Madam Speaker, Colleagues of the House. I had a customer of 12 years. He had signed four consecutive three year contracts with my company who called about six months ago to sever ties with us. I responded by attending a meeting with him. The end result was he had already signed a contract with a competitor. It looked as though he was going to save 25 to 30 percent on an annual basis. I said that I couldn't blame him, but I would keep in touch. He is a customer of ours again because a couple of months back he called and said that the service wasn't what he thought it would be. The quality of the product wasn't what he expected. Come to find out the clause in the contract that allowed them to raise prices if they saw the need had been invoked by the supplier. It came down to a question of value. In assessing value, the customer realized that over 12 years maybe we weren't beating him up all that badly and he had a good thing.

In response to the good Representative from Lewiston, I have to tell him that I sympathize. I would like to illustrate to you folks who are left in here that I, as a committee member, saw this as a Lewiston issue. You look at Representative Shannon who was also on the school board, the lead cosponsor who was the Mayor of Lewiston and Representative Lemaire is very involved and you know she is a Lewiston teacher. I saw it as a Lewiston issue because what happened was Lewiston would like to go out and get a better deal. I can't blame them. We all want to. You have heard the arguments as to why the MEA trust is able to maintain a smooth line without spikes. I submit to you, ladies and gentlemen, that Lewiston may indeed have four or five years of quality or low experience that will enable them to go and get a better deal, but then just like that a couple of pregnancies, cancer or bone marrow transplants, they will be way up here again and then where will they go, ladies and gentlemen? This goes back to Representative Mayo's assertion that we have to be careful with \$100 million. Indeed we do have to be careful with \$100 million.

Lewiston gets the spike after adverse experience and they come back to MEA and we want back into your plan because maybe we can save 30 percent now or they come to us in this body on their knees asking for an increase in GPA or they go to the local property taxpayers and try to justify a need for an increase in property taxes because gee, since property taxes had gone up so adversely. That is my way of pointing out how the pool gets watered down. It kind of reminds me of a fella I know who was on his honeymoon. He and his wife was on this footbridge and he looked down. He said, "Honey, look at that shiny thing in the water." She said, "I don't see it." He said, "Yes, there it is." He went down on the river bank and he said, "I think it is a coin. It may be a quarter and it is in the water. I think I can reach it." He reached in. She said, "Don't go there. We are on our honeymoon. You have a billfold full of money in your pocket. It is only a nickel or a dime." He said, "I want it. I really want to get it." He reached way down in and said, "Honey you have to hold me by the feet so that I can reach it." As he bent over he got it and pulled it out. He said, "Boy I am happy. I got it. She said, "You sure did honey, but there goes your wallet over that waterfall."

I admire Lewiston for reaching for that coin. The problem is they have no way of holding onto their wallet while they are doing

it. The reason why I am on the Majority Report here is because I would like not to see us try to fix something that isn't broke and hasn't been broken for 50 years. I don't want to topple a system that works well and jeopardize that much taxpayer money for something that could very well be, in retrospect, deemed to be a rash move.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Bigl.

Representative BIGL: Madam Speaker, Men and Women of the House. I would like to come out of the river. I would like to come away from all the details around insurance and whether you are going to have a broken leg or those kinds of things. I have a simple mind and I run in one direction, as you all know. I have heard two statements here concerning the \$100 million bill that we, as legislators, have to deal with. I have heard two statements saying that whatever has happened in the past has served us well and we get the biggest bang for the buck. In everything I heard today, I haven't heard any proof of that. All I have heard is that there is no way to get proof of that. I would like to get proof of that. I would like to know if we are getting the biggest bang for the buck and if it has served the population well.

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

Representative BOUFFARD: Madam Speaker, Men and Women of the House. This is not a Lewiston bill. If you look at the sponsors of the original bill, it is from every area of the state. This is a State of Maine problem. We ask our municipalities to go out on bids for every other project that is done in the city, why not health insurance as well? All that they are asking is that data be provided so that successful bidding can come out of this. I hope that you endorse the Minority Report. Thank you.

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

Representative SAXL: Madam Speaker, Ladies and Gentlemen of the House. I would like to respond to the request for information and address that issue. The information that these gentlemen seek is readily available. These determinations are made using techniques with age and gender and prior claims experience. Really, the information is right there within the school boards file's. Surely in each school district, you are fully aware of when you have a catastrophic illness, you have a very good idea as to whether your rates would increase or decrease. Of course, the hope is that your rates would decrease if you went out with a private agency. You have to remember that though your employees are healthy and well right now, illness is a strange thing and one can't predict when one is going to be ill. If you have a serious catastrophic illness, the rates will suddenly spike.

The protection of being in a large group is that they don't spike. You can absorb that cost over the large number of people. I served on the Bangor School Committee as well and on the Bangor City Council too. I was interested in minimizing costs as well, but I found that what was fairest to the teachers and the city employees was to spread their problems, which do occur in an unpredictable fashion no matter how go the actuarial tables are over a large population. It was also my experience while I served on the council that Blue Cross came to the City of Bangor and suggested that if they separated out the retirees the cost would be less. Although they didn't say it in public, they quietly said to us that if you separate out those costs in the next contract, you will be able to increase the amount and negotiate the amount the retirees will have to pay. If you were interested in protecting your retired group where the costs are obviously higher because as we age we tend to have more illnesses and more predictable medical problems, you will stay with the

community rating and you will vote "Ought Not to Pass" on this bill.

Representative BERRY of Livermore 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: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Madam Speaker, Ladies and Gentlemen of the House. I would like to answer a couple of the statements that have been made. The good Representative from Bangor may be correct in her statement about active and retirees as far as the nonteaching part of the employees of Bangor. However, we do have a statute currently in effect addressing the issue that she mentioned and a couple of people have written me notes since this short debate started with the retiree question. Let me read an item to you from 20A MRSA, Chapter 505A, Access to a group plan, "The group accident and sickness and health insurance plan that is in effect for active teachers in a public school system or school unit must be made available to all teachers eligible under subsection 2." Subsection 2, Dealing with Retirees, "Retirees who retired under the Maine State Retirement System when they left that system or school unit, the rate for the insurance coverage must be the same as the rate provided for active teachers in that school unit." It then goes on to say that you cannot break one off from the other on this current state statute. That statute is subject to change. The Legislature can do what it wants, but currently it is not possible.

We have heard a number of things. The good Representative from Brunswick, Representative Davidson, mentioned the school district, that it had a problem. I, too, heard the comments from the New York Life person who was involved, but we also heard comments from the school superintendent who was involved in that situation at the time who is now the school superintendent for the City of Portland. My recollection, and there are other people on the committee in attendance here this afternoon, New York Life indicated that had it had the experience rating and the claims history, particularly on the retirees because that was where the problem resided, they would not have to bid what they bid for that particular, they were bidding blind. When you bid blind, you take your chances. It is a crap shoot, sometimes you win and sometimes you lose.

I think the good Representative from Lewiston, Representative Bouffard answered the question with regard to this being a local problem in the City of Lewiston. It is not a local problem. This particular bill had support as to cosponsors from around the State of Maine in both chambers of this Legislature. It also had the support of the Maine School Management Association and has been stated at the Maine School Boards Association. It is not really a local matter.

I would add more comment and that is that we don't know, as the good Representative O'Neil from Saco said, whether it is broken or whether it isn't broken. The Representative from Lewiston, Representative Lemaire stated is it broken or isn't it broken? We don't know. We do know and we did hear testimony in the committee that in those instances where the Maine School Management Association had won a bid in most cases, their bid at that time and in the future were less than those premiums being offered by the MEA. How, ladies and gentlemen of this body, are we ever going to know whether we are getting a good deal or a bad deal, whether it is broken or whether it isn't broken, if we don't have the information upon which to make a \$100 million a year decision. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. In answer to my former seatmate on the Banking and Insurance Committee, my good friend, the Representative from Bath, how many other industries in the State of Maine can proudly stand up and say they have had a 0 percent increase in their health care costs over the last year? Certainly not the State of Maine. Certainly not Hannaford Brothers. Certainly not BIW, and I am betting, certainly not a lot of the small businesses in the State of Maine. What we have here today that is working is pretty much a purchasing alliance.

I know in the banking and insurance world everybody stands up and starts talking about banking and insurance and the room gets emptier and emptier because it is complicated stuff. Let me tell you. A purchasing alliance is just this. It is a group of people coming together and using the leverage and their numbers to have buying power so that the rates stay lower. In this case, this purchasing alliance has been successful and has not increased the cost at all over the last year for the group. If you make the changes proposed in LD 828, what might be good for Lewiston this year or for Portland this year, my district or for any other of your districts, might not be good for them the following year, but what happens if these groups come off the purchasing group? It would be to leave in the pool the highest risk groups in the state. That means if your town does not have a good experience rating that means if your town has high health care costs and they stay in the group, then the groups costs are going to go up every single year. It is going to cost your group within that trust more money every year. It is what they call a death spiral for purchasing alliances.

If a purchasing alliance exists and only attracts high risk groups, of course, their costs are going to go up. What this legislation before you today will do is dismantle a strong, stable purchasing alliance, which is helping all of the school districts in the State of Maine. What will happen is that, divided, each of these individuals will fall. While Lewiston or Portland might have a good year this year as soon as there is a catastrophic illness in their small pool, their costs will go right up. By spreading out the risk across the entire State of Maine for this pool, you are saving all of the school districts in the State of Maine money. Remember, over the last year 0 percent increase. The costs are controlled like no other pool in the State of Maine. We are making sure that 55,000 people are insured and I think that is a good thing. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Madam Speaker, Men and Women of the House. The good Representative from Bucksport asked about what might be some of the details to this and, as a teacher, right now in a system using Blue Cross and Blue Shield, it is the best you will ever get. I will give you some examples. Just compared to the one I had to take while I am here and give up the one I had as a teacher and when I retire, it will be much better than what I have got as a State Representative that is for sure. For example, one thing that is different is the copay. For any kind of medicine or prescription that you go to a drug store for, all I have to pay is \$2. I can get two months, three months or six months worth for \$2. The one I have now, as a State Representative, is I have to pay at least \$5 or up to \$10. That is one. That is just prescriptions. Then we talk about physicians. I had a physical exam because I have a HMO here with the state the doctor was allowed to charge \$137.40 for my physical. If I had to pay to the doctor for my physical, it would have been \$56.

Retired teachers, if you want to hear from a loud group, just try touching their insurance. The same thing with anyone of us as teachers. We have the best, I think in the whole United States, for a plan. If you think you are going break it up, you

want to talk about ulterior motives going on. You get some insurance people who are knocking on the doors. That is what you have got. They see that \$100 million and they want their paws on it. I want to get in Maine School Management, School Board Association. I will tell you. It sounds to me like one of our usual collective bargaining situations where the superintendent and his crowd is trying to bully the teachers again. That is what I am hearing here. I don't want it. I have heard enough from just being a teacher, all the teachers who have called me up, this is not right. Anytime you want to change something as all of the others have told you that it is better than everyone else, then do it.

I had a neighbor come up to me at the local evening supper and say what is the matter with that school you belong to, they won't let me, as an insurance person, come in there and sell them insurance. I said, well they are not stupid. They know they have a good insurance plan. Do not change it and follow the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Madam Speaker, Men and Women of the House. The Banking and Insurance Committee is a committee where we throw around our terms like claims history and community rating. I am not surprised that we are boring some people here today. I will try to be brief. We actually have a pretty good committee. We have a wonderful committee as a matter a fact and I think this is the first time that we have had a serious disagreement on issues. I would like to address a couple of the themes that have been raised by various speakers that preceded me. The point has been made that in the last year the premium increase through this pool has been 0 percent. I would like to point out that generally across the country premium increases for health insurance have been very moderate indeed. You have to go and look further back than one year in order to determine how your plan is doing. I'll bet if you do that you will find three or four or five years ago there were some very large increases in this plan as there were in many plans across the country. You can't draw conclusions about a plan from just the past year.

The MEA trust has 55,000 members. The point has been made that if you have a larger pool of people you spread out the risk more and, of course, that is absolutely true. In the Banking and Insurance Committee and in this hall we have enacted health insurance laws called community rating, which tries to spread out that risk when we are talking about businesses. We have what is called community rating, which takes that into account for businesses up to 24 and it is about to go up to 50. It is true that the larger the group the less chance you have of an anomaly. It is statistics.

Here we have a group of 55,000 people. If the MEA trust suddenly lost half its business because they had to provide the data to local school boards and they found a better deal, maybe they would only have 30,000 members. Boy, what a tragedy that would be. The point is 55,000, 40,000, 30,000 or 25,000 is more than enough for size of a group to spread the risk around. What you are actually doing, if you don't pass this bill, is to tell your local school people or your local people in the various towns that you don't trust them with the information that this bill would require to be provided. You are saying that we know better than you about how to spend your money so we aren't going to give you the information you need to shop around. That is what experience rating is. Experience rating is how much is paid out from the premiums that you and your school district have paid in. If you don't have that information, it is awfully difficult, as Representative Mayo and others have said, to go and shop for alternatives.

We have a situation here where one group has 85 or 90 percent of the market. They are opposing this bill because they know that if local school districts get more information, they may very well be able to find a better deal. That is why the school superintendent from Portland was in here testifying in favor of this bill. That is why various other members of the school boards where members of this Legislature have testified in favor of this bill and that is why this bill should be passed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Madam Speaker, Men and Women of the House. As a member of the Banking and Insurance Committee and being on the Majority Report, I urge you to support the pending motion. More times than not, when I read in a title of any bill, An Act to Require the Business Community to do this or that it prompts me to pay closer attention. LD 828 is no exception. With 25 years as an insurance agent, I have a fair understanding of the necessity of any insurer revealing their records to others. I ask that you please follow my light. Thank you very much.

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

Representative PERRY: Madam Speaker, Ladies and Gentlemen of the House. I first want to apologize. I am a little under the weather so I won't be able to speak quite as long as I had wanted to. I have several pages of notes that I could use to respond to the testimony. I just want to make a couple of simple points. I think we can all agree that the cheapest way to buy insurance is through a large group. I don't think there is any question about that. That is what we have a large stable group. We deal with insurance companies every day asking for information and they say that we can't give it to you, that is proprietary information. That is confidential. That is a fact of life in insurance. If we give this information out and the groups are cherry picked, the cream of the crop, as soon as they have an expensive incident, their rates are going to skyrocket and they are either going to want to get back in or there is another insurance term called dumping. I wouldn't want to be a sick teacher in a small group because they may want to dump me.

There is just two more points. The information costs, as my good friend Representative Mayo said, is sixth-tenths of 1 percent. That is a minuscule amount. The state pays 1 percent to buy and sell bonds. He mentioned rebate of experience rating savings. That is right. It is rebated into an account to stabilize the rates and keep no increases. If it were a private company, that rebate would go into the stockholders pocket as profit. This is return to keep the rates down. I urge you to support the "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative STANLEY: Madam Speaker, Ladies and Gentlemen of the House. Coming from the community that looked at an increase of 35 percent in the school budget and knowing the cost of having to place a child in our school system, the 100 year flood of having a devastating illness would cause another major burden to the taxpayers that I represent. I urge you to support the pending motion because united we stand and divided we will fall. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Shannon.

Representative SHANNON: Madam Speaker, Men and Women of the House. All I would like to say before we take this vote, that is if I agree with someone to buy, then, a cadillac, which is how they describe their own health plan, I at least ought to be able to choose the dealer I buy it from.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Madam Speaker, Men and Women of the House. I, too, want to share a little history. What we have here is a monopoly that has been going on for 50 years. There is a awful lot of money that is being made and it is being made by the insurance companies and the middle man. The middle man is the teacher's union. Every other insurance company releases their information. I say to you, what are these people afraid of? What are they trying to hide? Why are they afraid of this? I think there is a lot of similarity between this and the workers' comp issue. Most of you don't think on this side of the aisle that just because the rates are low that workers' comp is working fine, now do you? Just because there hasn't been an increase in the teacher's health insurance for a year doesn't necessarily mean that everything is fine. What they do is they overcharge during other years and then have a surplus fund that they use to decrease it in the following years. This story is very similar, if you think about it, what happened with the railroads about 50 years ago. The railroad too had a nice little monopoly going with Standard Oil. They gave Standard Oil a special little deal to carry their fuel all across the country. Just like Representative Davidson said, it was working well. Why open a door and throw a grenade in? Why allow any competition? I know Standard Oil thought it was a real good deal. I know they fought real, real hard a long, long time. They spent a lot of money on lobbying this really good deal. It was working well. Why allow competition? I say to you, what are we afraid of? What is it that they are hiding? Who is getting rich off this?

The benefit packages aren't going to change. The teachers are still going to get the same benefit package. What would change is that we get rid of a middle man and that we have freedom of choice just like what Representative O'Neil's customers had, freedom of choice to go somewhere else and maybe reconsider and come back. Right now 55,000 people are trapped under this particular insurance arrangement. I don't think it is right. I don't know what they are afraid of. Everybody else releases information except this one little particular group. I think it is a case of me thinks thou does protest too much. What are they hiding? I ask you to vote red on this. I ask you to vote red for freedom of information and ask you to vote red to help us break a monopoly because that is exactly what we have. Thank you.

The SPEAKER: 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. 164

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger DJ, Berry DP, Berry RL, Bigl, Bodwell, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Chartrand, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Gagne, Gagnon, Gamache, Gerry, Gieringer, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joy, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lovett, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, O'Brien, O'Neal, O'Neil, Paul, Pendleton, Perry, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, True, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Wright, Madam Speaker.

NAY - Barth, Bolduc, Bouffard, Bragdon, Buck, Bumps, Campbell, Carleton, Chick, Chizmar, Cianchette, Cross, Dexter, Donnelly, Dutremble, Foster, Frechette, Fuller, Goodwin, Gooley, Joyce, Kasprzak, Lane, Layton, Lemke, Lindahl, Mack, Madore,

Mailhot, Marvin, Mayo, Meres, Nass, Nickerson, Ott, Peavey, Perkins, Pieh, Pinkham WD, Rines, Savage, Shannon, Snowe-Mello, Taylor, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Winn, Winsor.

ABSENT - Belanger IG, Fisk, Joyner, MacDougall, McAlevey, Plowman, Treadwell.

Yes, 93; No, 51; Absent, 7; Excused, 0.

93 having voted in the affirmative and 51 voted in the negative, with 7 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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

TABLED - May 6, 1997 by Representative AHEARNE of Madawaska.

PENDING - Final Passage.

On motion of Representative AHEARNE of Madawaska, tabled pending final passage and later today assigned.

HOUSE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (H-343) - Minority (2) "**Ought Not to Pass**" - Committee on **State and Local Government** on Bill "An Act to Modify the Prequalification Laws to Allow the Disqualification of Contractors for a Time Not to Exceed One Year" (H.P. 285) (L.D. 349)

TABLED - May 6, 1997 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.

On motion of Representative BOUFFARD of Lewiston, the House reconsidered its action whereby the Majority "**Ought to Pass**" as amended Report was accepted.

The same Representative requested a roll call on the motion to accept the Majority "**Ought to Pass**" as amended Report.

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 acceptance of the Majority "Ought to Pass" as amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 165

YEA - Ahearne, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joy, Joyce, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mack, Madore, Mailhot, Marvin, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Tripp, True, Tuttle,

Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Bouffard, Dexter, Foster, Nickerson, Pendleton, Stedman, Vedral.

ABSENT - Belanger IG, Clark, Fisk, Gagnon, Joyner, MacDougall, McAleve, Plowman, Treadwell, Usher.

Yes, 134; No, 7; Absent, 10; Excused, 0.

134 having voted in the affirmative and 7 voted in the negative, with 10 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-343) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

HOUSE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (H-347) - Minority (2) "**Ought Not to Pass**" - Committee on **Judiciary** on Bill "An Act to Create a Family Division within the State's District Court" (H.P. 896) (L.D. 1213)

TABLED - May 6, 1997 by Representative THOMPSON of Naples.

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

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. This bill creates a family division within the District Court. That division will consist of parajudicial officers called Family Case Manager Officers and other necessary staff. This item was in the budget before it was voted on in our committee. We have since had the hearing and voted on it. I am on the Minority "Ought Not to Pass" with my colleague from the other end of the aisle in the other body, Senator Benoit. This will exist in the District Court and not Superior Court. I feel as though this will be two kinds of justice. One for the rich and one for the poor. The person who can afford an attorney can file the divorce case in Superior Court, thus avoiding the extra step of going before a Family Administrator Court and making the judicial end rung going to Superior Court. Those who can't afford council and there are about 8,000 to 14,000 divorce cases yearly without council must go through this third step procedure, family court, mediation and courtroom, which is a further rung in the divorce ladder.

People who go through the Family Court and resolve their case won't see a judge, but if they had a simple \$100 bill in small claims, they would see a judge. Important issues of divorce, custody, visitation of children and disposition of property, no judge would be seen, just the administrators. You would see a judge if you had a small claims debt. The question that you have to ask, and I asked, is are these Family Court Administrators judges or not? They are governed by the judicial canon of ethics, but they are administrators. Are they judges or not? The Maine Bar Association appeared at the public hearing against the bill. The Family Law Advisory Commission of the Maine Bar opposed the bill as well. Good luck in seeing this court work. The very people who are charged with working with this system, don't want it.

The price tag on this is just under \$1 million for the biennium. Like I said previously, there will be eight administrators out of the 17 new positions to handle the 14,000 divorce cases average per year across the state. Surely they will go where the bulk of cases that exist, Portland, Bangor, Lewiston, Auburn, Augusta. Urban and rural applications is how this law will be enforced on top of being a source of two standards of justice. How can eight people properly process 14,000 cases? That would be nearly

2,000 per administrator per year, just under 200 per month. Results are no specifics in this bill where the eight people will work. No pay schedule exists in the bill. What is the procedure with this setup? Do parties to a divorce go first to these administrators then to mediation then to the judge to contest cases or to the mediator first then to the administrator then to the court? As my good friend down in the other body said it is like *Abbott and Costello, who is on first?*

As I said in the testimony before the committee, the Maine State Bar Association testified against it and they said and I will quote from a section of it, "We therefore admire the goals of LD 1213, however, in the 1980s the Bar Association sought more judges for a Family Court to make these profound decisions. Middle income citizens deserve to be heard by a full-fledged judge just as much if not more than a corporation seeking debt collection. The Bar Association emphasizes the judges should be free to do more family law and not the other way around."

In other testimony, a lawyer Barbara Cardone, testified, and I will take a few sections out of her testimony, "In the 10 1/2 years that I have practiced law in Bangor, I have seen the costs of an uncontested divorce rise approximately from \$250 to over \$1500. The cost has risen, in part, because of the increased complexity of court proceedings. I am concerned that the impending legislation of attacking the problem of pro say litigants from the wrong angle. The use of case workers adds additional layers of mandatory proceedings in some cases. Requirements of double trials thereby driving the costs of the divorce even higher. This proposal will squeeze more people into the category of pro say litigants, thereby exacerbating the problem caused by the forming pro say dockets. With only eight case managers in the entire state, I find it difficult to believe that practitioners in northern and eastern Maine will have ready access to these case managers." For all those reasons, including the expansion of a bureaucracy, I would hope you would join me in voting against the pending motion. Thank you.

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

Representative JABAR: Madam Speaker, Men and Women of the House. Anybody associated with the court system now knows that it is too complicated, too long and too expensive. Domestic matters, including divorces, issues involving parental rights and responsibilities are now taking a significant portion of the courts time. In the middle of all of this litigation are the children of people involved in this type of litigation. Our system has become lengthy and combative. In an attempt to do something about it we have come up with what is recommended from the Judiciary Committee, a Family Division of the District Court. At the outset, I want to say that this court or any court in this country is not going to solve the problems that we have presently in this country with the breakup the family or with the large number of divorces that are present. I believe anybody will tell you that. How we deal with those divorces and how we are able to handle them such that there is less trauma to the children involved and the middle of them does make a difference. This particular bill does not do many of the things which it is claimed to do.

In all due respect to my colleague on the Judiciary Committee, Representative Waterhouse, I want to address some of the concerns that he raised. First of all, this is not a new court. This is an attempt to deal with the court that we have by adding resources and people to the court to help and assist the judges that we presently have. I would love to come before this House and say, listen, give us some more money so we can go out and hire four or five more judges to deal with the backlog of cases. Realistically, we all know that is not going to happen. We cannot afford it. Chief Justice Wathen and the Judiciary

Branch has come up with a way of trying to deal with this problem and what I would say is a very creative and innovative way. They have not added another level of bureaucracy no matter what you may here from these people who say it is. These case management workers are working in the existing system that we now have, the District Court. They are working under the supervision and direction of the court system. In each individual court there are judges there who have the final say on all cases. These case management workers will do many things that judges do now that can be done by somebody other than a judge, such as uncontested divorces where both parties are represented or not represented and they agree on everything. It is simply a matter of bringing their case before the judge and before the court to get the stamp of approval. Right now judges have to do that. Now, with passage of this bill, these case management workers will be able to do this ministerial act of making sure everything is in order processing it and letting the divorce become final without taking the judge's time.

If the litigants are fighting about who was going to be driving the family car, who was going to have the house while this divorce is pending, these case management workers can do that and take that function away from the judge. One of the areas that some of the bar associations and the Family Law Commission was concerned about was a jurisdiction that these workers had with interim orders involving children. We worked that out. In the work session we addressed their concerns and we made some amendments to the original bill and any matter involving children, even on an interim basis, will not go before these people unless both sides agree. The judge has the final say.

The case management worker's decision regarding support pending the divorce or until the divorce is final, who gets the family car, who pays the bills and things such as that are only interim orders. The judge makes the final decision in every case. No one is being forced to go in front of a case management worker on serious matters involving children or final disposition of the property. The Bar Association, the Family Law Advisory Commission, their recommendations, many of them were adopted by the Judiciary Committee and they are presently in the bill. They do not object to the bill as it now stands. These case management workers may not be judges and it would be nice to have additional judges, but they are an added resource to the District Court that focus, and their only focus is on family matters. That was one of the concerns of some of the groups that came before us. Do not let these case management workers do other things other than family matters. The Judiciary Committee said, fine. We put restrictions in there and they are only to work on family matters and maybe there aren't enough to handle 14,000 divorces, but eight workers helping the court system and helping the judge deal with the backlog are better than none. They are not going to aggravate the system. They are going to help the system.

Finally, as I said in the beginning, the group who will benefit the most from this are the children who are involved in long complex combative divorces. Divorces that go on for months are very emotional. They are very tense and in many instances the sooner they are over, the better it is for the children many times who are being manipulated in the middle of it. The parties themselves, even without children, need to get through the process as efficiently and expeditiously as possible. This system is not going to be a perfect system. It is not replacing what we have now. It is going to be an assistant or a help and there is really no good reason not to support this bill because it has a good goal. I ask you to support this bill. I believe it goes a long way to helping our courts. Chief Justice Wathen asked for this in his State of the Judiciary speech. He talked about the

complexity of domestic matters. This is a step in the right direction and it would be nice to have a completely new family court, but sometimes you just can't afford that and you have to come up with something less expensive, but just as helpful. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Madam Speaker, Ladies and Gentlemen of the House. I would like to say a word on behalf of these children. I have spent 35 years of my professional life in providing the counseling and treatment to families and children who have been affected by divorce. Let me tell you that it is not the legal separation, not the breakup of the family that is the most destructive on the children. It is the adversarial process that has been part of our court system all of these years that shatter the emotional security of children and sets parents off, one against the other, and forces children to divide their loyalties. We have paid a cost and these children have paid a great cost for this adversarial process of our current system. I plead with you to make a beginning in setting a more therapeutic foundation for these kids in the legal system through the establishment of the Family Court. Thank you.

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

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. I rise to indicate that I recall the visit by the Chief Justice. I always listen closely to what the court has to say. This legislation, to me, is one of the most refreshing pieces of legislation that I have seen in this session. I say this because it gives some hope to problems that unfortunately have occurred within my family. We know about the difficult demands on the courts that are faced every day. They are clogged with criminal and civil litigation. Families have to wait too long for resolution to the problems before the courts. I consider this legislation a major step in the right direction to help families dealing with the very difficult issues of separation, custody and support dealing with children. The family being something that we all hear about a great deal here in this body, I would ask you to join in supporting this legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. I believe that Representative Jabar has presented most of the points that were of importance to the Judiciary Committee. I just want to cover one or two others. You have got to know that early on in every session your Judiciary Committee takes a close look at judges, what they are doing, how many cases they are processing and I would just like to address this briefly. At least I am convinced that Maine's judges are processing more cases in less time than we find in most other states. This state devotes less resources, at least per case or per judge than most states in the area. That doesn't mean we are doing a good job necessarily. It means we are doing a good job on the cases we process, but we still have a huge backlog and it definitely affects families and children. As you deal with the bills that come before us, it is pretty depressing. This is our opportunity to put some more resources into families and children and I believe it is important to do so now. Most of this money, as we discussed in the budget, is federal dollars, somewhere between two-thirds and three-quarters of it. We have been convinced that this is not just a three year or a two year program. This has been a continuing resource based on our ability to raise money through child support enforcement. It is important to do this now. The resources are here now. It is time to devote some more dollars and time to families and children and this is the time to do it. Thank you.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. For over a decade this state has struggled to find a way to create a Family Court and before us today we have the opportunity and creativity to have that happen. As Representative Jabar and Representative Kane have pointed out, family issues in the past have been enormously contentious and enormously difficult for those families who have had to go through the court system. We now have the opportunity to apply the law in a reasonable way, but in a way that is helpful to both family and children. It is rare that we have bill before us that is stamped and says profamily and prochildren. This bill clearly says profamily and prochild. Thank you.

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

Representative TESSIER: Madam Speaker, Men and Women of the House. I have been a social worker in the military for 20 years before coming back to Maine. In this capacity I had the occasion to be in courts throughout the United States in dealing with family issues such as domestic violence, child abuse and adoptions. In those states that had Family Courts, I found the judges and the court staffs were knowledgeable and sensitive to family issues and we were able to expeditiously serve the families in their troubled times. Often in the nonfamily court we were treated as though we were a hindrance to them, doing what they considered their real business. We have an opportunity here to begin the process to institute a family system and I would support that. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I might direct your attention to the amendment where it says the Chief Justice of the District Court, with the approval of the Chief Justice of the Supreme Judicial Court, shall employ family case managers. I can't find the qualifications on the amendment, but the amendment does say that these case managers have optional requirements. Section three, Interest Training and Expanse of Mediation and other Alternate Dispute Resolution Techniques, Domestic Violence, Child Development, Family Dynamics and Case Management are made optional. That is the key word. You want to think about that when we talk about these case managers who are going to be hired, more or less. These qualifications, and expertise, are optional rather than mandatory qualifications for family case management offices.

I will state now that I certainly deferred quite a bit in the the committee. I listened to all the committee testimony and listened to my fellow colleagues on the committee and listened very closely to Senator Benoit who served 15 years on the bench and dealt quite a bit with these cases as did some of the lawyers on the committee. All these concerns that I brought up today were his also. In fact, I got most of them listening to his vast expanse on the bench. We have to consider what it says in this amendment though. These qualifications for handling these cases, that judges would normally see, now this is going to be optional that they have experience in this area. Madam Speaker, I request the yeas and nays.

Representative WATERHOUSE of Bridgton requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

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

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

Representative LANE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative LANE: Madam Speaker, Men and Women of the House. I think the idea of Family Court is great, but I have a couple of concerns about who hires them and who reviews these parajudges, sort of, family case management officers. Could someone please tell me who hires them and who reviews them? Thank you.

The SPEAKER: The Representative from Enfield, Representative Lane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. In response to the question on the amendment the Chief Justice of the District Court with the approval of the Chief Justice of the Supreme Judicial Court shall employ the family case management officers.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 166

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger DJ, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Madore, Mailhot, Marvin, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Barth, Bragdon, Gerry, Jones SA, Joy, Joyce, Kasprzak, Lane, Layton, Lindahl, Mack, Pinkham RG, Pinkham WD, Stedman, Underwood, Vedral, Waterhouse, Winsor.

ABSENT - Belanger IG, Bolduc, Bunker, Farnsworth, Fisk, Joyner, MacDougall, Mayo, McAlevey, Plowman, Shannon, Sirois, Treadwell.

Yes, 120; No, 18; Absent, 13; Excused, 0.

120 having voted in the affirmative and 18 voted in the negative, with 13 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-347) was read by the Clerk and adopted. The Bill was assigned for second reading Monday, May 12, 1997.

The following items were taken up out of order by unanimous consent:

Bill "An Act to Promote Water Skiing in the State" (H.P. 374) (L.D. 519)

TABLED - May 7, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Adoption of Committee Amendment "A" (H-368).

Representative UNDERWOOD of Oxford presented House Amendment "A" (H-388) to Committee Amendment "A" (H-368), which was read by the Clerk and adopted.

Committee Amendment "A" (H-368) as amended by House Amendment "A" (H-388) thereto was adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-368) as amended by House Amendment "A" (H-388) thereto and sent up for concurrence.

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

TABLED - May 8, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative PAUL of Sanford, the rules were suspended for the purpose of reconsideration.

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

The same Representative presented House Amendment "A" (H-400) which was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-400) in non-concurrence and sent up for concurrence.

Resolve, to Create a Task Force to Develop a Single Payment System for State and Federal Taxes for Small Businesses (H.P. 988) (L.D. 1368) (C. "A" H-240)

TABLED - May 8, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Final Passage.

On motion of Representative TRIPP of Topsham, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed as amended.

On further motion of the same Representative, the rules were suspended for the purpose of further reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-240) was adopted.

The same Representative presented House Amendment "A" (H-416) to Committee Amendment "A" (H-240) which was read by the Clerk and adopted.

Committee Amendment "A" (H-240) as amended by House Amendment "A" (H-416) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-240) as amended by House Amendment "A" (H-416) thereto in non-concurrence and sent up for concurrence.

SENATE PAPERS

The following Communication: (H.C. 240)

Maine State Senate

State House Station 3

Augusta, Maine 04333

May 8, 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 has Insisted and Joined in a Committee of Conference on the disagreeing action between the two bodies of the Legislature on "An Act to Create an Elder Abuse and Fraud Unit in the Department of the Attorney General" (HP. 476) (LD. 647).

The President has appointed as Conferees on the part of the Senate the following:

Senator Michaud of Penobscot
Senator Cleveland of Androscoggin
Senator Bennett of Oxford.

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

Was read and ordered placed on file.

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

In reference to the action of the House on Wednesday, May 7, 1997, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative KERR of Old Orchard Beach
Representative TOWNSEND of Portland
Representative OTT of York

ORDERS

On motion of Representative MITCHELL of Portland, the following Joint Order: (H.P. 1322)

ORDERED, the Senate concurring, that the Joint Standing Committee on Health and Human Services report out a bill on smoking and health to the House.

Was read and passed and sent up for concurrence.

Reference is made to Bill "An Act to Provide Relief from Barking Dogs" (S.P. 373) (L.D. 1232)

In reference to the action of the House on Friday, May 9, 1997, whereby it Insisted and Joined in a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative CAMERON of Rumford
Representative BERRY of Livermore
Representative BELANGER of Wallagrass

The Chair laid before the House the following item which was tabled earlier in today's session:

Expression of Legislative Sentiment recognizing the North Gorham Public Library (HLS 458) which was tabled by Representative DONNELLY of Presque Isle pending passage.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Madam Speaker, Ladies and Gentlemen of the House. This year the North Gorham Library celebrates its 100th anniversary with many special events. I would like to take a few more minutes of your time to explain the history. The potential for water power development was an important settlement factor for this northern part of Gorham

known in the late 1700s as Great Falls. As its name applies, here was the greatest of all the falls on the Presumpsqot River. Industrial applications of water power foster greater growth in this community and by the early 1800s many families have settled in North Gorham. With this growth came more and more illiterate people who brought their books and loaned them to their neighbors. Book borrowing was common in early American communities and grew as the populous did become more illiterate. An early interest in circulating library resulted in the first permanent public library in this area, which was no more than a small room in a community building known as Forest Hall, a building erected for the purpose of civic meetings. The construction of a higher dam in this area in 1900 required the removal of several buildings along the edge of the river that would have become flooded. Forest Hall and Smith Brothers Store were but two of those that were relocated. The library room was small. There was no reading room and its uses continued to grow. In 1897, a gift of \$600 from the trustees of the estate of Joseph Walker, a local native with a business partner and also the benefactor for Westbrook's Walker Memorial Library, enabled the North Gorham Public Library Association to purchase the Smith Brothers Store and relocate to that building. It is from this date that we mark our 100th anniversary.

In the early morning of Wednesday, July 23, 1975, fire destroyed the library building and nearly all of the books were lost. Local people gathered together to try to solve our library needs. Because of a fire insurance policy that became payable in the amount of \$10,000 and the need for new fire station here, a library wing was added to the construction plans. The opening of our present day library occurred in 1977. As we continue to grow, it is important to have this active modern library in the northern part of Gorham and the surrounding communities of Standish and Windham. Through many trying times the North Gorham Library has persevered and I suspect it will continue for another 100 years. I invite any of you who might be in the area on Saturday, June 21, 1997, to visit our library and witness its rededication. Thank you.

Subsequently, the Sentiment was read and passed and sent up for concurrence.

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

On motion of Representative THOMPSON of Naples, the House adjourned at 1:37 p.m., until 10:00 a.m., Monday, May 12, 1997.