

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

bank accounts in an estate with parent-child, there was no deception, absolutely none at all.

As I told you yesterday, it is more often than not that the bank tellers are telling the little old lady, as she comes up to the window shakily and gives her passbook to the teller to make her deposit, they suggest to her, kindly, why don't you, Mrs. Jones, open a joint account with your daughter here in order that she may be able to assist you when and if it becomes impossible for you to get in and make your deposits or draw on your account? They mean very well in doing this, there is no deception.

Mother didn't intend that anything be wrong, just that she wanted that convenience of being able to say that if she was in a nursing home or if she wasn't able to get out in that storm, her daughter could go into the bank and draw the money she needed for whatever purpose she needed it for. The daughter meant well by it, she wanted to perform that service. It wasn't until Mrs. Jones died that that daughter even knew she had \$5,000, as it is now, or \$10,000 as we may decide we want it, or \$20,000 as was proposed in the original bill. It was only then, when they came into the office and sat down, brother, sister and brother, that they found out, the will is there in front of them, mother is dividing everything between the three of them, and I say, please, I am sorry to tell you this, but \$5,000 goes directly to daughter because she is on that joint account.

As I told you yesterday, daughter one quite often says, well that really wasn't what mother intended. I will divide that equally with the other two. I have to say, before you jump that gun, remember that you have to deal with some other consequences. One is, you may have an inheritance tax in your situation because you increased the amount of beneficial share, so it may well be subject to inheritance tax that is not true of the other two because there is the exemption level. I have seen a case where there was an inheritance tax because one child got more.

Secondly, you have got to remember that there are Internal Revenue codes dealing with gift taxation. And grant you, there are exemptions or limitations on that that protect you, but you must file returns. Those returns you are going to have to pay for. Possibly if you are considering making gifts of your own, you have got to consider this in that, and I have got to advise you because that is what I am here for, that before you go distributing, cutting up that one third of that amount, make sure you understand just exactly what you are doing. You are not just giving it because out of your heart you want to do what mother wanted you to do and then poor daughter number one is in a very, very precarious spot of having to try to decide to do what mother would really like her to do or cutting back expenses, and very often the brother and sister that are sitting there say, somebody hoodwinked me and if I, as an attorney, happen to represent that daughter that is getting that extra \$5,000, they usually point the finger at me. They then run out and get themselves a lawyer to confirm what I have said and they have incurred additional costs.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I believe that the gentleman from South Portland, Mr. Perkins, made a very explicit and comprehensive explanation of this whole thing, and I support his amendment. I believe that most people, when they draft their will, certainly would think of a savings account, even though one of the children might have been on it, basically their savings account they consider part of their estate, and in the division that they indicated in their will, they would want their children or relatives would share according to the will.

It is my understanding that whatever amount we exempt here today, the five, the ten or twenty thousand will be exempt from the effect of the will, and I think that should be kept at a minimum amount. Of the choices available here to us today, the amendment that is now before us, sponsored by Representative Perkins, would keep it at the minimum level, \$5,000. I hope that we allow this amendment to be attached to the bill so that as much as possible of the total estate of the person can be subject to the will.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I think Mrs. Clark did an excellent job in explaining to you at length why this amendment should be indefinitely postponed.

The bill, with my amendment, with Mr. Perkins' amendment, or no amendment at all, I think, is a good bill. It certainly is a step in the right direction.

I would like to just very quickly point out the only area of difference between my amendment and Mr. Perkins' amendment. The present law allows \$5,000 in a joint account with a child. The committee felt unanimously that it should be put up to allowing \$20,000. After hearing some of Mr. Perkins' concerns, we reconsidered that position and felt that perhaps the \$10,000 limit was a good compromise. If for no other reason, the present law is now \$5,000 and the decreasing value of a dollar, I don't think that \$10,000 is too much to ask. So I would ask that you do indefinitely postpone this amendment so that we may address ourselves to the next one.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Cote.

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the committee that has been studying the uniform probate laws, the committee addressed this but it is my recollection that they never addressed the children, they were talking about the spouse. There are nine lawyers on that committee, and I guess they have had experiences whereby someone with a joint account and only one third of that joint account went to the spouse and the other two-thirds went to the children, and if the children refuse to sign over the money to the mother, many times the mother was left without the necessary funds that her husband had intended for her to have.

We have studied this. When I first saw the bill I thought it was a little premature because I know it is going to be addressed by the Uniform Probate Law Commission, and I am sure in the next session of the legislature you will have a solid law put on the books if this legislature decides to accept it.

I think it is a fair compromise, the compromise of the gentleman from Waterville, and probably we should address it at that level. I am sure that at the next session, as I say, next January, we will probably come in here with a bill that will really clarify this.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Pierce, that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

15 having voted in the affirmative and 77 having voted in the negative, the motion did not prevail.

Thereupon, House Amendment "B" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" and House Amendment "B" thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" and House

Amendment "B" thereto in non-concurrence and sent up for concurrence.

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

Joint Order Relative to Amending Joint Rule 11 (H. P. 2264)

Tabled — March 30 by Mr. Birt of East Millinocket.

Pending — Passage.

On motion of Mr. Birt of East Millinocket, retabled pending passage and tomorrow assigned.

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

Bill "An Act to Clarify the Laws Relating to Marine Resources" (H. P. 2010) (L. D. 2192) (C. "A" H-1145)

Tabled — March 30 by Mr. Greenlaw of Stonington

Pending — Adoption of Committee Amendment "A" (H-1145)

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, I move indefinite postponement of Committee Amendment "A" and would speak very briefly to my motion.

The SPEAKER: The gentleman from Stonington, Mr. Greenlaw, moves the indefinite postponement of Committee Amendment "A".

The gentleman may proceed.

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: The reason for moving indefinite postponement of Committee Amendment "A" is that there is one section that needs to be changed and I have a House Amendment that is being prepared. It is at the printers now and if we can indefinitely postpone Committee Amendment "A", perhaps later in today's session I can offer House Amendment "A" which also adopts all the additional changes in the Committee Amendment with the one exception.

Thereupon, Committee Amendment "A" was indefinitely postponed.

Thereupon, under suspension of the rules, the Bill was read the second time.

On motion of Mr. Greenlaw of Stonington, tabled pending passage to be engrossed and later today assigned.

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

Bill "An Act Repealing the Expungement Law and Providing for the Control of Access to and Disclosure of Criminal History Record Information" (S. P. 773) (L. D. 2326)

Tabled — March 30 by Mrs. Najarian of Portland. Pending — Passage to be Engrossed.

On motion of Mrs. Najarian of Portland, tabled pending passage to be engrossed and tomorrow assigned.

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

Bill "An Act to Revise the Laws Relating to the Maine Traffic Court (Emergency)" (H. P. 2257) (L. D. 2327) (H. "C" H-1160)

Tabled — March 30 by Mr. Rolde of York.

Pending — Adoption of House Amendment "A" (H-1144)

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. McBreairty.

Mr. MCBREAIRTY: Mr. Speaker and Members of the House: I am sure it will surprise some of you when I say I believe I know something about a motorcycle. My wife and I have one of the hottest machines on the road. We have a B.M.W. 900. I learned to ride a motorcycle when I was 55 and I never had a driver ed course.

My wife and I take at least one fairly long trip every summer. We have been to Nova Scotia, Quebec City, Vermont, New Hampshire, and

many other places the last few years on our B.M.W. If we accept this amendment today, we will be mandating a new program for our school departments which will be very expensive and I believe not needed.

We will be mandating that students between 16 and 17 will have to complete a driver ed course to get a license to drive a car, then take a second driver ed course to get a motorcycle license. This will be forcing the age group, which has just completed a driver ed course and should already be the best qualified age group, at a great expense to the state and the students, to take two driver ed courses, while no other age group will have to take any training whatsoever to get a motorcycle license.

Many students get jobs during the summer. It will make it very expensive if they have to take time off for a second driver ed course which might be dragged out over several weeks. By the time they take the course, get a permit, then a license, the summer will be over.

I feel sure that due to the expense and time involved, many will wait until they are 17. The insurance alone to cover such a program statewide would, I believe, be very expensive.

I think it is safe to say that Section 39A was put in this bill at the request of several of my constituents and Secretary of State Gartley.

I have talked several times to the State Police and they have no problem with Section 39A of this bill. I have here the 1975 motorcycle fatalities given me yesterday by the State Police.

We had 18 fatalities in 1975. Not one fatality was in the 16 year age group. 58.8 percent was caused by alcohol; 66 percent was caused by speed. I can't see one here that would have been saved by an extra driver ed course. The regular driver ed course surely has already taught them the rules of the road.

I don't believe an extra Driver Ed Course will teach any young folks not to drink or speed. In fact, I have had my B.M.W. to 95 with Mom on the back. If I live until summer, I intend to try to hit the 100 mark. What fun would it be to have a motorcycle that will do 120 miles an hour, if we didn't speed once in a while.

I believe the deficits we experienced the last two years in education plainly indicates that we need no more mandated programs until we find a way to finance the ones we already have. I don't have to worry about the money for my district this coming year, because last Saturday the teacher who plans to start the course this spring told me we might as well put the course in because we have a surplus.

During our conversation I asked the young man what he could teach that hadn't already been taught in the regular driver ed course. As an example, he asked me what I would do if I was riding my bike and saw a dog by the side of the road. He had me stumped first thing.

I have never been quite sure what to do, because every dog seems to be different. When I finally gave up, he informed me that the thing to do was to swing over close to the dog, and after passing, swing back. I tried that once and came close to losing my right leg. When I hurriedly turned away to keep the dog from biting me, I nearly got run over by a Mack truck.

This law has been on the books since 1973. I am sure if school officials, State Police, and parents had felt it was needed, it would be in full swing by now.

I would hope we might kill this amendment and eliminate at least one mandated program we cannot afford.

As the school teacher said, I don't have to worry about the money this year because we have a surplus. What I am worried about is next year. If the fishing happens to be poor along the coast, we may have to pay for the program ourselves.

The SPEAKER: The Chair recognizes the gentleman from So. Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: There have been a few misconceptions that have just been stated on the Floor of this House and I would like to try and clear these up and explain to you what is happening as I did yesterday.

First of all, I guess I will explain where we are right now. In the 106th, I introduced a program to establish driver education for motorcycles. We accepted it, we sent it up identical to the way we have it for automobile licenses whereby if you are 16, you have to have motorcycle driver ed to get your permit for a motorcycle. Once you hit your 17th birthday, you can get your license and permit without ever having to sit on a motorcycle, the same way as without ever having to drive a car. Okay, so we are only going to deal with 16 year olds to begin with.

There is nothing in the law that says that the schools have to run this program, there is nothing in the law that says the schools have to run an automobile driver training program. This is something that they have opted to do, through pressure, granted, and through help from the Department of Education.

Now what happened, when I introduced this bill, there was a person working in the Department of Education as a consultant in drivers ed. He has since left and that position has not been filled. Therefore, there was no one that was immediately responsible in the department to go around developing these programs with the local school district driver ed programs.

The Secretary of State's Office did license instructors and they taught and right now we have approximately 80 people qualified to teach driver ed and there can be more coming in, there are courses available the same as there are courses available in the summer at colleges for people to learn how to be instructors in automobile drivers ed. When we passed the bill, we said we wouldn't let it go into effect until September 1, 1975. It did, and now we are getting into a little bit of a problem because there are 16-year-olds trying to get their permits and they can't because they have not had drivers ed, and this is a real problem. So, another misconception that was stated was, granted this wording was worked out by the Secretary of State's Office but then after I talked with them, we agreed on another compromise and that compromise was just to move the implementation of this program up another two riding seasons, to September of 1977 and then the people in the Department of Education have agreed that they will start working and they will try to shift some resources around and the person in charge of bus safety who is having to take over the additional duties of drivers ed will attempt to work with the school systems, the driver ed school systems now, to get this program on board and operating.

This has been brought before the Judiciary Committee in a hearing on their Errors and Inconsistencies Bill and the general feeling that I have gotten from members of that committee was that they don't seem to have any problems with this and I expect it to be on the Errors and Inconsistencies and if it isn't, I would offer an amendment from the floor to put it on because I realize there is this problem. We are not mandating anything on the schools.

Where I took drivers ed when I was in school, it was not my system, it was in a neighboring one, and I had to pay the full cost of that and many kids have to do that today so it is no additional cost on the schools.

There are many dealers out there that I have talked to that are willing to donate the bikes. I was hoping to get all my material on this but, as I say, I found out about this yesterday and was not able to, but most of this course is hands on

time. True, they have had the book work, the rules of the road and this type of thing but most of the drivers ed course will be hands on operating a motorcycle in a parking lot and through pylons and then out on the street under the supervision of a person in back of them while riding in a car or following them or something of this nature.

What happens is, we see this come through and again, as I stated yesterday, I talked to members of the Judiciary Committee, who seemed to be a little confused on how this got on and I guess it upsets me because here we are basically killing a program and I have not had a chance in a public hearing to bring people in to explain this, to defend it, to explain the benefits.

Mr. McBreairey has given you one set of figures, one set of figures on the fatalities for one year in the state, or for a couple of years, I didn't catch it. Most of those age groups, I looked at that, are — I guess there are no 16-year-olds but there are some 19 and 20-year-olds, younger people, does it address the fact that in our nationwide studies we have seen that something like 70 percent of accidents that are caused by motorcyclists are caused by a motorcyclist in his first 6 months of operation. This is a serious problem. Many of us — I did it — we get on our bikes, get a permit, you pass ten questions to get a permit to drive a motorcycle, you get on that bike and you can go out. There are a lot of us who are responsible and can handle it but there are a lot of people who can't, especially when you get that age group, I think there are a lot more. They get on a big bike and, sure, they may be able to ride it for awhile but then they come to that first corner with some sand on it or their first dog, and I am not sure what the Representative from Perham has mentioned is accurate or what they were teaching in the course — I haven't seen the actual course instruction and I would like to bring some instructors in here to a public hearing to explain what they would say in a situation like that. I know that in my case and many others, a lot of people don't know what to do and I just feel that it is really important to have this.

I would like to have the opportunity to defend this program with statistics. I would like to see what the statistics are just on motorcycle accidents, not the fatalities but the accidents across the state last year. Were there a lot of 16 or 17-year-olds that had accidents on motorcycles? Why? What was the reason? Before we kill a program like this, let's have these reasons, let's find out what is going on.

So what I am saying is, let's give the state a chance to work with the districts and some of the private schools to implement the motorcycle drivers ed. If we do that, we are not mandating a thing. We are saying that we are going to give some time, we are going to work with these people and if we develop some programs, then maybe in two years, some 16 year olds still can't get the program because there may not be any in their area, but we are not saying to the districts, you have to have those programs.

If you will pass my amendment, it wipes out this section 39A which, in effect, nullifies those reasons for ever having motorcycle drivers ed and then we will, in effect, hold off the implementation of this while we develop the programs, and if the gentleman from Perham has a real problem, let him come back in the 108th with a bill to eliminate this and let us come to a public hearing and explain. Let's bring out some of the facts, let's see what happens in other states that do have motorcycle drivers ed. Let's see what happens, we can look at the facts and figures on automobile drivers ed, the insurance rates go down.

I got a break when I got my license because I had automobile drivers ed. I have talked to some insurance people, they say they have the

mechanism all set up to give breaks for people who have motorcycle drivers ed.

I hate to belate this, but it is something that I really feel strongly about because there is a definite need for this to educate people, not just motorcyclists but people in general that motorcyclists are for equality on the highways, when we are out on that highway, that we treat automobile drivers with an equal regard and that they treat us with an equal regard. I think by having motorcycle safety programs, driver ed programs, this is going to help accomplish this goal.

The Secretary of State is willing to go along with the compromise on the Errors and Inconsistency Bill; I talked with him this morning and he is going to apologize if this ever got on, the traffic code had nothing to do with it, he said. I talked to people in State Police and they are not willing to make a policy statement, they have not had a chance to go over it with their policy board. One member of the State Police that I talked with said that he is in favor of drivers ed but he can't give any definite say on anything because they have not decided this in a policy group.

I guess what I am asking is for you to vote for my amendment. We will postpone the effective date of this and we will try and work this out.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Shute.

Mr. SHUTE: Mr. Speaker, I would like to pose a question to the gentleman from South Berwick, Mr. Goodwin. I apologize because I was out during part of the debate, but how many public schools in the state offer the motorcycle driver ed course and how many private driving schools offer the driver ed course?

The SPEAKER: The gentleman from Stockton Springs, Mr. Shute, has posed a question through the Chair to the gentleman from South Berwick, Mr. Goodwin, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. GOODWIN: Mr. Speaker, as far as I know, there are no public schools that are operating motorcycle drivers ed now and I tried to explain the reason for this. There has not been any help from the department in trying to aid these schools in setting up these programs.

These programs can be set up at no cost to the schools. There are many automobile driver ed programs that are run specifically in the summer that is totally self-supporting. The ones usually run during the year are not but the ones during the summer are.

As far as the private schools, I don't know, I have heard at times that some driver schools have gotten motorcycle trainers and stuff like this, but I don't know of any per se, I haven't checked. The point is, and I can't emphasize this any more, the Judiciary Committee has dealt with a possible amendment on Errors and Inconsistencies that will push this ahead until September of 1977 before any 16-year-old will have to have motorcycle drivers ed before he gets his permit. And again, we are only talking about 16-year-olds. I think we should keep that in perspective to the fact that we are trying to push this ahead so that we don't run into a problem right now. The Secretary of State's Office agrees with this method to postpone it for two riding seasons or about a year and a half or so, but until September of 1977, and then by that time it is hoped that we can work this out so we can offer these programs throughout the schools.

The main thrust in the past few years was to get the people trained to teach the courses.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The older gentleman from Caribou scares me to death. The young gentleman from South Berwick seems to have

the sensible program. I hope you will support him.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. McBreairty.

Mr. MCBREAIRTY: Mr. Speaker, Ladies and Gentlemen of the House: There are two or three questions that have been raised here that I would like to try and answer. If this program is self-supporting, the Department of Education informed me that it would cost from \$40 to \$45 for each student and this you would add in my area the time lost because most of these young people are working in the summertime.

Now, as to how this got onto this bill, I am going to try and go through it as near as I can. I had some constituents ask me about this law and they were quite upset because they had a youngster that had bought a bike and he couldn't get a license because he had to have a course that wasn't there. I said I would see what I could do. So I came down and I tried to find a bill that I could put an amendment on that might take care of it. In doing this, I checked with Transportation and finally went down to Secretary of State Gartley's office.

He said, Jim, we were just talking about that and we have problems with it too. He had a piece of paper in his hand. Before I got through talking, he passed me the piece of paper; it was the amendment that has been put on this bill. He gave me the number of a bill that he thought it might go onto. He said to take it to the Judiciary Committee, Sam Collins is chairman. I went to Sam Collins, I said, how is chances of getting this on? He said, Jim, would this be kind of an economy move and I said, I think it would because I think it is quite an extensive program and I don't believe that we need it. He said, take it up to my legislative assistant and give it to him. I did this and the next thing I knew, it was on this bill. So that is the story.

As for this accident report, he said he would like to know what happened? I am going to go through it, it won't take very long. Number one was speed, single vehicle; number two, alcohol, speed, single vehicle; number three, attempted wheelies, single vehicle; next, hit head on, two vehicles; next one, alcohol, high speed, single vehicle. Now this one says intention, I assume that means he intended to kill himself, I don't know, but this is what it says. The next one, alcohol, speed, two vehicles; the next one, driver had been drinking, hit by vehicle, wrong side; next one, hit by vehicle at an angle; next one, alcohol and speed; next one, alcohol, speed; next one, alcohol, speed; next one, unsafe left turn by a car; next one, alcohol, speed; next one, speed, speed, speed, speed; that is what they have for a report on this.

I would have gotten more, but I got this yesterday, I got it in a hurry and I hardly had time to go into the other year.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I called my superintendent this morning to find out how this was progressing. He told me that they haven't done anything about it. He said he wished they would leave them teaching school instead of trying to mandate all types of programs for them. I said, you know this was on the book and he said, yes, I knew it was on the book but he said, we can't get anyone interested in the program. I can't mind if it is backed up two years, but maybe we should take it off the books and let it come back and be on the books in two years.

I have a son right now that has been riding motorcycles since he was four years old and I will guarantee you, there is not a man here that can beat him in how to ride a motorcycle. He rides well on the road and he does a beautiful job. He broke his collar bone when he was six years old; he had a little machine, it is true, Mr.

Speaker, he was four years old when he was riding a motorcycle, he had a little one. We have six motorcycles in the house.

I don't know why we want to mandate the school departments, we mandate the hot lunch programs, we mandate all kinds of things for them to do, and these teachers are getting sick and tired of this business of us making laws for them to implement and I don't know if we should try to do this type of thing, how to ride motorcycles.

First of all, we have no one who wants to teach it and I don't know where they would do it in my area. We happen to have the biggest high school in the state, I don't know if a lot of people know that, but we have a beautiful school and no one seems to be interested in teaching this type of motorcycling.

Yesterday, there was a lady that called up my house, she had called the Motor Vehicle Department and wanted to know what they had to do to get a license. Her son wanted a motorcycle license and he could not get it. The guy said, well, I don't know anything about motorcycles, I don't care for 16-year-olds to ride on motorcycles in the first place, this is our Department of Motor Vehicles. Well, I will tell you one thing, if a young fellow can drive at 16 years old or 15 years old, he would certainly know how at the age of 17 because he has been riding for quite a few years.

We have a lot of motorcycle riders in our area. I don't know if I want this to be set back two years or take it off the books, but when it comes time, I want you people to look it over and think about it before you do it.

The SPEAKER: The Chair recognizes the gentleman from Stow, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: I think one thing should be cleared up. First of all, it is not a mandated program, it is a program where it is not mandated to the schools, it does not have to be taught in the schools it can be taught anywhere. It just says that a 16-year-old will have to take some motorcycle driving instructions. And as I understand it, Mr. Goodwin wants to extend this until this program is set up and I think we ought to give him that opportunity.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to support Mr. Goodwin on this. This section of the traffic code came in after a discussion with a member of the other body who is on the Judiciary Committee. The committee was not aware of the fact that this was a hotly contested issue between different camps of motorcycle drivers and thought that it was simply a minor correction to clear up an inconsistency. It obviously is an issue that is of great importance to the people inside this body and I assume that it must be of importance to people outside this body as well.

It seems to me that it would be very unfortunate if we were to change the present law without affording an opportunity for a fair and full hearing on this issue where the people who are concerned about it could come up here and have their point of view made known to the people who are deciding it and have a hearing on it. As a practical matter, this bill, which is obviously a significant matter, has not had a public hearing. I don't think that we should make this change without having a public hearing, and in the Errors and Inconsistencies Bill, the program will be extended for one year so that any immediate problem that Mr. McBreairty might have with it has been taken care of.

I would urge you to support Representative Goodwin and not have his bill, in effect, repealed without even giving him an oppor-

tunity to come to a hearing and make the views of myself and his supporters known.

Mr. McBreairty was granted permission to speak a third time.

Mr. McBREAIRTY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair. If this is not a mandate program, why is it these young people cannot get a drivers license?

The SPEAKER: The gentleman from Perham, Mr. McBreairty, has posed a question through the Chair to anyone who may care to answer.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I don't know how many more times I have to explain it and other people do. It is not mandated upon the schools. It is required of 16-year-olds to have drivers education but it is not mandated upon the schools to teach it. There is nothing in the law which says you have to teach it, there is nothing in the law that says you have to teach automobile drivers education. This is something that has developed over the course of time.

There are 16-year-olds that can't have automobile drivers education because either the courses are filled — I have had people complain to me because they can't get it because local school district courses are filled. It is not mandated on the school systems to provide this.

The SPEAKER: The Chair will order a vote. The pending question is on the adoption of House Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

48 having voted in the affirmative and 22 in the negative, House Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, have we got a quorum?

The SPEAKER: The Chair will check, everybody in their seats kindly vote.

The Chair will announce that a quorum is present.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I move that we reconsider where this amendment was adopted.

The SPEAKER: The gentleman from Corinth, Mr. Strout, moves that we reconsider our action whereby House Amendment "A" was adopted. The Chair will order a vote. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Farley of Biddeford requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Mr. Strout of Corinth to reconsider adoption of House Amendment "A". Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Berry, G. W.; Birt, Carpenter, Carter, Conners, Cote, Curtis, Dam, Drigotas, Durgin, Farley, Finemore, Gould, Hewes, Hunter, Hutchings, Jacques, Kelley, Lewin, Lewis, Lunt, Lynch, MacEachern, Mackel, MacLeod, McBreairty, McKernan, Perkins, T.; Peterson, P.; Rollins, Shute, Sprowl, Tarr, Teague, Tozier, Walker, Webber.

NAY — Bachrach, Bennett, Berry, P. P.; Berube, Boudreau, Burns, Bustin, Call, Carey, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, Doak, Dow, Dyer, Faucher, Fenlason, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Henderson, Hennessey, Hobbins, Hughes, Ingegneri, Jackson, Jalbert, Jensen, Joyce, Kany, Kauffman, Kelleher, Kennedy, LaPointe, Laverty, Leonard, Lizotte, Lovell, Mahany, Martin, A.; Martin, R.; Maxwell, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Peakes, Pearson, Pelosi, Perkins, S.; Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Silverman, Snow, Snowe, Spencer, Strout, Stubbs, Susi, Talbot, Theriault, Tierney, Torrey, Truman, Twitchell, Tyndale, Wagner, Wilfong, Winship, The Speaker.

ABSENT — Bagley, Blodgett, Bowie, Byers, Carroll, Curran, R.; DeVane, Dudley, Farnham, Hall, Higgins, Hinds, Immonen, Laffin, LeBlanc, Littlefield, McMahon, Mills, Norris, Palmer, Smith.

Yes, 39; No, 91. Absent, 21.

The SPEAKER: Thirty-nine having voted in the affirmative and ninety-one in the negative, with twenty one absent, the motion does not prevail.

Mr. Spencer of Standish offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1155) was read by the Clerk and adopted.

The Bill passed to be engrossed as amended by House Amendments "A", "B" and "C" and sent up for concurrence.

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

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revisions Commission" (Emergency) (S. P. 697) (L. D. 2217) reporting "Ought to Pass" in New Draft "A" (S. P. 777) (L. D. 2334)

Report was signed by the following members:

Messrs. COLLINS of Knox
CLIFFORD of Androscoggin
— of the Senate.

Mrs. MISKAVAGE of Augusta
Messrs. SPENCER of Standish
HENDERSON of Bangor
McMAHON of Kennebunk
PERKINS of South Portland
HEWES of Cape Elizabeth
HOBBINS of Saco
BENNETT of Caribou

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft "B" under New Title Bill "An Act Making Certain Revisions in the Maine Criminal Code" (Emergency) (S. P. 778) (L. D. 2333) on the same Bill.

Report was signed by the following members:

Mr. MERRILL of Cumberland
— of the Senate.

Mr. HUGHES of Auburn
— of the House.

Came from the Senate with the Majority Report accepted and New Draft "A" Passed to be Engrossed as amended by Senate Amendments "A" (S-488), "B" (S-495) and "C" (S-496).

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I move we accept the Majority "Ought to pass" Report in New Draft "A" and would speak to my motion.

The SPEAKER: The gentleman from Stan-

dish, Mr. Spencer, moves that the House accept the Majority "Ought to pass" Report in New Draft "A" in concurrence.

The gentleman may proceed.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The matter which is now before us is the bill to revise the Maine Criminal Code as recommended by the Criminal Law Revision Commission. There are a number of significant changes in the criminal code proposed in this bill and there will be a number of amendments to this bill submitted at second reading.

The only distinction between the two reports that are now before you is the question of when a person may utilize deadly force in their dwelling. The majority report of the committee provides that deadly force, which is defined as any force which is likely to cause death or serious bodily injury, may be used against an intruder into your house, somebody who was in your house in order to commit a crime, either if you feel that they are likely to use unlawful force against you or anyone else in the dwelling, also, if they are there to commit a crime, you warn them that they are to get out of your house and they refuse to get out. That is the only distinction between the two reports.

The criminal code, as it now exists, limits the use of deadly force for the situation where you reasonably believe that they are likely to use unlawful force against you or someone else in your dwelling.

The committee report provides that if somebody is in your house and you reasonably believe that they are there to commit a crime, if they are there unlawfully with the intention of committing a crime and you warn them and they refuse to leave, then you have the right to use deadly force against them.

The situation that this was drafted to deal with is a situation that has been discussed across the state where a person enters the dwelling which is occupied, for example, by a single person. The person who is in the dwelling has a gun. The person who is in the house committing the crime says, I am in your house and I am here to commit a crime but I am not going to hurt you. You have no reason to be afraid, I am not going to hurt you but I am going to rob you and burglarize the house. Or, another situation would be where a person came into the house and said, we are not going to hurt you but we have a truck here and we are just moving out all of your stuff. In that situation, under the present formulation there is a concern that you would not be able to stop this offense from being committed. Under the code version, you would have the authority to go and get your gun, point it at the person who was there and say, get out of here or I am going to shoot you, and if the person did not leave, you would then have the right to use deadly force against them. If the person did leave, in that situation you would not have the right to use deadly force.

Another situation which often might occur and which was of concern to the people that were disturbed with the present formulation is that somebody is in your house, you come upon them rummaging through your bureau or taking your stuff, they hear you and they start to run out the door carrying your television or whatever it is that they have taken. Under the majority recommendations, you would not, and I can't emphasize this strongly enough, you would not have the right to shoot somebody whose back was turned to you who was running out with a television set because they would be terminating the criminal trespass and it would not be necessary to use deadly force to terminate the criminal trespass. I think the question that is involved here is a matter of fundamental importance and we are really talking about the circumstances under which it is possible to take a human life. The committee has somewhat broadened the provisions of the present code so that you have the right to force someone who is in your house committing a crime to get out, as long as you warn them first. I think that extension is justifiable, but I think that the committee report has still retained the basic