

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**January 5, 1977 to May 25, 1977**

KJ PRINTING  
AUGUSTA, MAINE

**SENATE**

Wednesday, May 11, 1977

Senate called to Order by the President.  
Prayer by Reverend Charles Burt, Green Memorial A.M.E. Zion Church in Portland.

Rev. BURT: Let us pray. Eternal God, our Heavenly Father, God of the Heavens, God of the Universe, we come to Thee at this hour and on this momentous occasion thanking Thee for Your love and tender kindness, for Thy favor that Thou has shown towards us. We pray that Thou might bless us this morning collectively and individually.

We pray, Oh God, that You might search our hearts. We pray that You might direct us, lead and guide us into all truth. We pray, Dear Lord, that You might be ever present in our midst. Whatever is accomplished today, let it be done to the glory of Thy name. This is our prayer for Christ's sake. Amen.

Reading of the Journal of yesterday.

(Off record remarks.)

**Papers from the House  
Non-concurrent Matter**

Bill, "An Act to Permit 17 Year Olds to Donate Blood Without Parental Consent." (S. P. 289) (L. D. 915)

In the Senate May 3, 1977 Passed to be Engrossed as amended by Committee Amendment "A" (S-108).

Comes from the House, Bill and Papers Indefinitely Postponed, in non-concurrence.

On Motion of Mrs. Snowe of Androscoggin, The Senate voted to adhere.

**Non-concurrent Matter**

Bill, "An Act to Establish 4-year Motor Vehicle Licenses." (S. P. 481) (L. D. 1743)

In the Senate May 4, 1977 Passed to be Engrossed.

Comes from the House, Passed to be Engrossed, as amended by House Amendment "A" (H-288), in non-concurrence.

On Motion of Mr. Greeley of Waldo, the Senate voted to recede and concur.

**Emergency**

**Non-concurrent Matter**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1977. (Emergency) (H. P. 1499) (L. D. 1717)

In the House May 6, 1977, Finally Passed.

In the Senate May 9, 1977, failed of Final Passage.

Comes from the House, that Body having Insisted.

On Motion of Mr. Jackson of Cumberland, the Senate voted to recede and concur.

This being an emergency measure and having received the affirmative votes of 24 members of the Senate, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

**Non-concurrent Matter**

Bill, "An Act Concerning the Crime of Prostitution." (H. P. 629) (L. D. 770)

In the House May 2, 1977, Passed to be Enacted.

In the Senate May 3, 1977, Bill and Papers Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body having Insisted.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, I move we adhere.

The PRESIDENT: The Senator from York, Senator Lovell, now moves the Senate adhere.

On Motion of Mr. Conley of Cumberland, tabled until later in Today's Session, Pending

the Motion of Mr. Lovell of York that the Senate adhere.

**Non-concurrent Matter**

Bill, "An Act Relating to Political Fundraising by State Employees." (H. P. 453) (L. D. 558)

In the House May 5, 1977, Passed to be Enacted.

In the Senate May 6, 1977, Failed of Enactment, in non-concurrence.

Comes from the House, that Body having Insisted.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I move the Senate adhere.

On Motion by Mr. Conley of Cumberland, Tabled for one legislative Day.

Pending the Motion of Mr. Collins of Knox that the Senate adhere.

**Joint Orders**

Expressions of Legislative Sentiment recognizing that:

Madeline Chapman of Damariscotta is retiring after 35 years of dedicated service to the people of Damariscotta and Miles Memorial Hospital. (H. P. 1544)

Chief of Police Leo J. Rafferty has retired after 36 years of devoted service to the citizens of Yarmouth. (H. P. 1546)

Come from the House, Read and Passed. Wich were Read and Passed, in concurrence.

WHEREAS, through the course of each day, many visitors, employees and Legislators pass through this Capitol and its huge complex; and WHEREAS, the domestic and custodial staff at the State House does an extremely thorough job at keeping this complex free of dust, dirt, its marble shining and its brass brightly polished; and

WHEREAS, carpenters, electricians and countless others go beyond the demands of their regular duties to aid in the comfort and convenience of the Legislature; now, therefore, be it

ORDERS, the Senate concurring, that the Members of the 108th Legislature join in this expression of thanks to each of you within the several bureaus and agencies who service the Legislature, for your outstanding effort and our continued appreciation for the service you have so cheerfully rendered; and be it further

ORDERED, that suitable copies of this Order be prepared and presented to members of this dedicated work force to convey the sentiment expressed herein. (H. P. 1545)

Come from the House, Read and Passed. Which was Read and Passed, in Concurrence.

**House Papers**

Bills received from the House requiring reference to Committee were acted upon in concurrence.

**Office of The Governor**

May 10, 1977

Honorable Joseph Sewall  
President of the Senate

and  
Honorable John L. Martin  
Speaker of the House

Dear Joe and John:

This is to formally notify you that we have reposted Asa C. Richardson of Glenridge Drive, Augusta, today to the State Personnel Board.

In accordance with M.R.S.A., Title 5, Section 591, as amended, this nomination is subject to review by the Joint Standing Committee on Labor and to confirmation by the Legislature.

Thanking you in advance for your assistance in the area of appointments.

Very truly yours,  
JAMES B. LONGLEY  
Governor  
(S. P. 495)

Which was Read and Referred to the Committee on Labor.  
Sent down for concurrence.

**House of Representatives**

May 10, 1977

The Honorable May M. Ross  
Secretary of the Senate  
10th Legislature  
Augusta, Maine.

Dear Madam Secretary:

The House voted today to Adhere to its former action whereby it accepted the "Ought Not to Pass" report of the Committee on Education on Bill "An Act Relating to the Payment of Fees for Certification of Educational Personnel" (Emergency) (H. P. 110) (L. D. 141)

Respectfully,  
EDWIN H. PERT  
Clerk of the House

Which was Read and Ordered Placed on File.

**Orders**

An Expression of Legislative Sentiment recognizing that:

Lynn Welch, Terri Bourke and Kimberly Ochmanski of South Portland and Theresa Redmond of Scarborough have been chosen by Seventeen Magazine to represent Maine at the Tennis Tournament of Champions at Mission Viejo, California, May 17-May 21, 1977. (S. P. 494)

Was presented by Senator Hewes of Cumberland.

Cosponsors: Representatives: Benoit, Gill and Curran of South Portland.

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President, before this Order is passed, I would like to say a few words about the fine program South Portland has had for tennis in the last few years. They have had a tremendous civic interest, including their high school coach Pete Debevoise. The Boys' Team has been State champions several years, even New England champions one year, and the girls have come along very well.

Lynn Welch, the first girl mentioned — in fact, these four girls are chosen based on age groups, one, Lynn Welch is 21-years and younger; Terri Bourke, 18 and under; Theresa Redmond, 14 and younger; and Kim Ochmanski, 12 and under and they, theoretically, are the four finest lady tennis players in their age brackets. They are going to California next week at the request of Seventeen Magazine, and I hope we have this Order passed so they can take it with them at the time.

In passing, Lynn Welch has been the finest lady tennis player in the State of Maine for several years. She attends Rollins College in Florida at the present time.

I had hoped that Terri Bourke, who is a classmate of these young ladies here today, would be here. She is at South Portland High, but because of losing next week going to California, she is not here today. And the other two young ladies are comers, and I certainly hope that this Order receives passage.

Which was passed.

Sent down for concurrence.

On Motion of Mr. Hichens of York,

WHEREAS, there have been several bills before the 106th, 107th and 108th sessions of the Legislature which have attempted to address numerous problems associated with Maine's dog population; and

WHEREAS, there is a burgeoning population of unwanted and uncared-for dogs; and

WHEREAS, these dogs do damage to the state's wildlife, especially the deer herds, pose a potential health hazard to the people of Maine and require that municipalities expend considerable resources for the care and control of such dogs; and

WHEREAS, the present licensing fee schedule is based on a dog's sex rather than on his capacity to reproduce; now, therefore, be it

ORDERED, the House concurring, that the Joint Standing Committee on Agriculture study the problems of enforcement of the dog licensing and dog leash laws, including an assessment of the authorities most appropriate for the enforcement of these laws; and be it further

ORDERED, that the committee study the problems faced by municipalities in providing proper care for stray dogs and study possible methods for controlling the growth of the dog population; and be it further

ORDERED, that the committee study various methods of destroying dogs and other small animals and identify those which would ensure the most humane death under various circumstances; and be it further

ORDERED, that the committee study the existing license fee schedule for all dogs; and be it further

ORDERED, that the committee shall complete this study no later than 90 days prior to the First Regular Session of the 109th Legislature and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee. (S. P. 496)

Which was Read.

On Motion of Mr. Speers of Kennebec, Tabled, Pending Passage.

### Committee Reports

#### House

The following Ought Not to Pass reports shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act Concerning the State Revenue Sharing Funds." (H. P. 855) (L. D. 1045)

Bill, "An Act Appropriating Funds for the Adult Dental Clinic in Bangor." (H. P. 1108) (L. D. 1362)

Bill, "An Act to Provide for Reimbursement of Certain Expenses Incurred by a Maine Band Selected to Participate at the Inauguration Ceremonies of a President of the United States." (H. P. 1069) (L. D. 1261)

Bill, "An Act to Permit Trout Fishing on All Brooks and Streams until September 15th." (H. P. 751) (L. D. 900)

Resolve, to Appropriate \$3,000 for the Kingman Fire Department in Kingman Plantation. (H. P. 957) (L. D. 1249)

Bill, "An Act to Appropriate Funds to the Metropolitan Leadership Development Camp." (H. P. 1341) (L. D. 1591)

Bill, "An Act Pertaining to Corrected Tabulation of Ballots in a Disputed Election." (H. P. 815) (L. D. 988)

#### Leave to Withdraw

The Committee on Agriculture on, Bill, "An Act to Place Running Horse Racing under the Jurisdiction of the Department of Agriculture." (H. P. 510) (L. D. 629).

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Education on, Bill, "An Act to Establish the Maine Student Incentive

Scholarship Program." (Emergency) (H. P. 475) (L. D. 581)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Education on, Bill, "An Act to Clarify the Responsibility of the State to Educate Children under State Care." (H. P. 317) (L. D. 408)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act to Provide Uniform Open Water Seasons on Lakes, Ponds, Brooks and Streams." (H. P. 190) (L. D. 252)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Fisheries and Wildlife on, Bill, "An Act to Require Trappers to Check Their Traps Every 24 Hours in Unorganized Places." (H. P. 693) (L. D. 875)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

The Committee on Natural Resources on, Bill, "An Act to Redefine the Storm and Sanitary Sewer Purposes Affected by Municipal Debt Limitations." (H. P. 649) (L. D. 793)

Reported that the same be granted Leave to Withdraw.

Comes from the House the Report Read and Accepted.

Which Reports were Read and Accepted in concurrence.

#### Ought to Pass

The Committee on Veterans and Retirement on, Bill, "An Act to Appropriate Money for Revolutionary War Veterans Grave Markers." (H. P. 794) (L. D. 906)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Business Legislation on, Bill, "An Act to Correct the Used Car Information Law." (H. P. 903) (L. D. 1103)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Business Legislation on, Bill, "An Act Relating to Processing Certificates of Authority, Annual Statement Fees and Continuation of Broker and Adjusters' Licenses under the Insurance Law." (H. P. 313) (L. D. 404)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Business Legislation on, Bill, "An Act Relating to Acquisition of Interest in Financial Institutions." (H. P. 401) (L. D. 511)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Education on, Bill, "An Act to Authorize Certain School Debt Service Payments to be Offset by Increased Payments to the Treasurer of State." (Emergency) (H. P. 975) (L. D. 1172)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Fisheries and Wildlife on, Bill, "An Act to Establish an Annual Procedure for Updating Open Water and Ice Fishing Regulations." (H. P. 189) (L. D. 251)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Local and County Government on, Bill, "An Act to Provide that Hancock County Commissioners Shall be Elected by Districts." (H. P. 829) (L. D. 1002)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Local and County Government on, Bill, "An Act to Require that Androscoggin County Commissioners Live within the District from which they are Elected." (H. P. 1145) (L. D. 1374)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Reports were Read and Accepted in concurrence, and the Bills Read Once and Tomorrow Assigned for Second Reading.

The Committee on Health and Institutional Services on, Bill, "An Act to Create a Division of Public Health Nursing within the Bureau of Health, Department of Human Services." (H. P. 699) (L. D. 882)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-300).

Which Report was Read and Accepted in concurrence, and the Bill Read Once. House Amendment "A" was Read and Adopted in concurrence, and the Bill as amended, Tomorrow Assigned for Second Reading.

(Off record remarks.)

#### Ought to Pass - As Amended

The Committee on Business Legislation on, Bill, "An Act to Repeal Certain Laws Relating to Occupations and Professions." (H. P. 962) (L. D. 1159)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-280).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A"

The Committee on State Government on, Bill, "An Act Concerning gubernatorial Appointments to the Board of Commissioners of the Profession of Pharmacy." (H. P. 503) (L. D. 622)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-281).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A"

Which Reports were Read and Accepted in concurrence, and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence, and the Bills, as amended, Tomorrow assigned for Second Reading.

#### Ought to Pass in New Draft

The Committee on Judiciary on, Bill, "An Act Relating to the Possession of Firearms by Felons." (H. P. 359) (L. D. 450)

Reported that the same Ought to Pass in new draft under new title; Bill, "An Act Relating to the Possession of Firearms by Persons Convicted of Certain Crimes". (H. P. 1536) (L. D. 1761).

Comes from the House, the Bill in new draft, Passed to be Engrossed.

The Committee on Local and County Government on, Bill, "An Act to Authorize the Purchase of 100 Copies of "Tall Ships, White Houses, and Elms, Thomaston, Maine, 1870 - 1900" published by the Thomaston Historical Society." (H. P. 493) (L. D. 612)

Reported that the same Ought to Pass in new draft under new title; Bill, An Act to Provide

for the Purchase of Certain Town Histories". (H. P. 1534) (L. D. 1759)

Comes from the House, the Bill in new draft, Passed to be Engrossed.

The Committee on Public Utilities on, Bill, "An Act to Dissolve the Lincoln Sanitary District." (H. P. 947) (L. D. 1142)

Reported that the same Ought to Pass in new draft under new title: Bill, "An Act to Enable the Transfer of All Assets and Liabilities, Except Bonds and Notes, of the Lincoln Sanitary District to the Town of Lincoln and the Dissolution of the Lincoln Sanitary District. (H. P. 1538) (L. D. 1763)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

The Committee on Veterans and Retirement on, Bill, "An Act to Repeal Certain Laws Relating to Defense and Veterans Services." (H. P. 1102) (L. D. 1326)

Reported that the same Ought to Pass in new draft under same title. (H. P. 1542) (L. D. 1764)

Comes from the House, the Bill, in new draft, Passed to be Engrossed.

Which Reports were Read and Accepted in concurrence, and the Bills, in new Draft, Read Once and Tomorrow Assigned for Second Reading.

The Committee on Health and Institutional Services on, Bill, "An Act Pertaining to Ambulance Service." (H. P. 521) (L. D. 639)

Reported that the same Ought to Pass in new draft under new title: "Bill, An Act Amending the Ambulance Service Law". (H. P. 1523) (L. D. 1748)

Comes from the House, the Bill, in new draft, Passed to be Engrossed, as amended by House Amendment "A" (H-298).

Which Report was Read and Accepted in concurrence, and the Bill, in new draft, Read Once, House Amendment "A" was Read and Adopted in concurrence, and the Bill, in new draft, as amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Education on, Bill, "An Act to Require Towns without Secondary Schools to Provide Transportation to Secondary Schools." (H. P. 1025) (L. D. 1273).

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-275).

Signed:

Senators:

PIERCE of Kennebec

Representatives:

LYNCH of Livermore Falls  
BAGLEY of Winthrop  
PLOURDE of Fort Kent  
FENLASON of Danforth  
BEAULIEU of Portland  
CONNOLLY of Portland

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senators:

KATZ of Kennebec  
USHER of Cumberland

Representatives:

LEWIS of Auburn  
MITCHELL of Vassalboro  
BIRT of E. Millinocket  
WYMAN of Pittsfield

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-295).

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate, in hearing this Bill we found that there are some children, primarily I guess all

from small towns within the State of Maine who are really at a kind of a unique disadvantage in that their towns do not belong to an SAD and, therefore, they do not have access to transportation to at least one secondary school, which is what this Bill provides for.

It has created some unique problems, especially naturally in winter months when children had to hitchhike to school or cannot get rides. There has been a unique truant and drop-out problem as a result of no law in this area. Needless to say, transporting approximately 2,000-some-odd children that are involved in this situation would involve a cost, and this Bill does indeed have an appropriation on it.

However, I think the problem is severe enough and unique enough so that we should pass this Bill today and let it compete with some of the other educational Bills and other measures on the Table to see whether or not we do want to fund this at a later date.

I would now move we accept the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves the Senate accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. Katz, the communities affected by this mandation are communities like Chelsea and Windsor, both of which are small towns outside of Augusta, which I represent. And I was in a little bit of a quandary on this. It was a conflict between my concept of mandating something else for these small towns, which in general feel they have had it up to here with the State telling them what they must do. So my vote went in the direction of local control, but I must confess to the Senate that my heart is with the Senator from Kennebec, Senator Pierce, on this one.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I, too, have my heart with the Senator from Kennebec, Senator Pierce, and I would hope that the Senate would accept the Ought to Pass Report.

Majority Ought to Pass, as amended, Report Accepted in concurrence.

Bill read Once, Committee Amendment "A" Read and adopted, House Amendment "A" Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Education on, Bill, "An Act to Authorize a Bond Issue in the Amount of \$2,950,000, for a Fine Arts Classroom Building at the University of Maine at Portland-Gorham." (H. P. 1116) (L. D. 1334)

Reported that the same Ought to Pass.

Signed:

Senator:

USHER of Cumberland

Representatives:

BEAULIEU of Portland  
BAGLEY of Winthrop  
LYNCH of Livermore Falls  
MITCHELL of Vassalboro  
WYMAN of Pittsfield  
CONNOLLY of Portland

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senators:

KATZ of Kennebec  
PIERCE of Kennebec

Representatives:

FENLASON of Danforth  
LEWIS of Auburn  
BIRT of E. Millinocket  
PLOURDE of Fort Kent

Comes from the House, the Majority Report

Read and Accepted, and the Bill Passed to be Engrossed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I have some problems with this proposed bond issue. In my not too distant past, buildings for the University was the No. 1 pork-barrel that faced the legislature every second year, and we have succeeded in establishing a procedure whereby the Trustees set up their priorities. They are reviewed by the State and then forwarded, if such is the case, to us in the form of legislation. And that has been done this Session.

This Bill is sponsored by an individual Member of the other Body, which identifies the need for a fine arts classroom building and the need is there and it is demonstrated. The facility that they do have is inadequate in every respect, but it does not fit in the top of University priorities; Consequently, I voted against it, just as I voted for the Bill sponsored by the University Trustees.

My second problem with this Bill is that although it is a bond issue in the amount of \$2.95 million, I am absolutely confident that this amount of money is inadequate for the needs. The sponsor really did not know how much the building was going to cost.

My third problem is that there is a complete lack of any information as to what the people intended to build. They really did not know what they wanted to build, they wanted a building, so they grabbed a figure of \$2.95 million and came to the Legislature, but they do not know what they are going to build or how much it is going to cost.

My final problem is they do not know where they are going to build it. They are going to build it in Portland-Gorham area.

I guess the picture I am giving to the Senate today is that this is an ill-conceived project, that is not of the University Trustees that addresses a need that is proven, but not in a very timely or adequate manner.

Consequently, I move acceptance of the Ought Not to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Usher.

Mr. USHER: Mr. President, I ask for a Division. I would like to make a few comments. There was a lot of testimony before the Committee. I believe the arts in the State of Maine are being left out of the educational picture here, and I think there is a chance that we can take the right step to help the art cultures in the State of Maine.

They need this space very badly, and I think a vote in favor of the Majority Report would give them a little initiative today.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Kennebec, Senator Katz, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

A Division has been requested.

Will all those Senators in favor of the pending Motion, please rise in their places to be counted.

Will all those Senators opposed to the pending Motion, please rise in their places to be counted.

17 Senators having voted in the affirmative and 12 Senators voting in the negative, the Motion to accept the Minority Ought Not to Pass Report does prevail.

Sent down for concurrence.

**Divided Report**

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act Concerning Ice Fishing for Bass" (H. P. 1030) (L. D. 1251)

Reported that the same Ought Not to Pass.

Signed:

Senators:

REDMOND of Somerset  
USHER of Cumberland  
PRAY of Penobscot

Representatives:

MacEACHERN of Lincoln  
MASTERMAN of Milo  
ROLLINS of Dixfield  
PETERSON of Caribou  
MILLS of Eastport  
TOZIER of Unity  
DOW of West Gardiner  
PEARSON of Old Town

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Representatives:

McKEAN of Limestone  
GILLIS of Calais

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

Majority Ought Not to Pass Report accepted in concurrence.

**Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act to Modify the Grounds for Divorce and the Proceedings to Obtain a Divorce." (H. P. 821) (L. 994)

Reported that the same Ought to pass in new draft under same title. (H. P. 1537) (L. D. 1762)

Signed:

Senators:

COLLINS of Knox  
MANGAN of Androscoggin  
CURTIS of Penobscot

Representatives:

SPENCER of Standish  
HUGHES of Auburn  
HENDERSON of Bangor  
BYERS of Newcastle  
NORRIS of Brewer  
TARBELL of Bangor  
HOBBINS of Saco  
DEVOE of Orono  
BENNETT of Caribou

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Representative:

GAUTHIER of Sanford

Comes from the House, the Majority Report Read and Accepted and the Bill in new draft Passed to be Engrossed.

Which Reports were Read.

Majority Ought to Pass in New Draft Report accepted in concurrence.

The Bill, in new Draft, Read Once, and Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Public Compensation to the Victims of Crime." (H. P. 707) (L. D. 841)

Reported that the same Ought to Pass in new draft under same title. (H. P. 1535) (L. D. 1760)

Signed:

Senators:

MANGAN of Androscoggin  
CURTIS of Penobscot

Representatives:

SPENCER of Standish  
HUGHES of Auburn  
BENNETT of Caribou  
NORRIS of Brewer  
HENDERSON of Bangor  
HOBBINS of Saco  
GAUTHIER of Sanford

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senator:

COLLINS of Knox

Representatives:

DEVOE of Orono  
TARBELL of Bangor  
BYERS of Newcastle

Comes from the House the Majority Report Read and Accepted, and the Bill in new draft, Passed to be Engrossed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, the idea of this Bill is a good one and I wish that I could support it. Two years ago the Legislature passed a very similar Bill. It was vetoed by the Governor, and the veto was sustained, largely because of the cost feature of the Bill.

The two reasons that I oppose the Bill at this time are, one, that I do not see the money available in the budget, whether it is \$30,000.00 or \$50,000.00. Whatever we would give it would be sort of a drop in the bucket as compared to the amount of actual loss by victims of crime.

The second reason is that the Congress of the United States is currently working on a Victims of Crime Bill. I only know about that what I have read in the newspapers, and what is indicated is that Congress might pass a Bill which would provide some sort of a partnership arrangement with the States, in which the Federal Government would pay part of the cost, and the state part of the cost, in the familiar subsidy and carrot approach. If that should pass, then undoubtedly we would want to take another look at this Bill, but at the present time I do not feel that it is the best thing for us to attempt.

I would, therefore, move that the Senate accept the Minority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, having signed the Majority Report on this Bill, what I had to consider in evaluating this measure is that if one is involved, for example, in an automobile accident in the State of Maine today, chances are they have insurance to reimburse them. If one is misrepresented by an attorney, there is a fidelity fund to reimburse the victim. If one is misused by a doctor, there is always a fund under the malpractice Statute, and insurance clauses, if a fire should happen in your home, you have the insurance to cover your home problem.

However, if you happen to be a victim of a crime, and I spend much time defending the criminals, but on the other hand we have to consider the victims of crimes. We have to consider the individual who is assaulted on the street and who has no place to turn.

This victim many times becomes the pawn of the attorneys and the Courts, of the District Attorneys, to show up and testify against this one individual and what not. But there is really no way to compensate this individual for injuries which he or she may have sustained as a result of an aggravated assault.

Now what this Bill is doing, and it makes an attempt to be realistic and rational, the amounts of money that should be appropriated from the General Fund is a sum of \$50,000.00 to carry out the purpose of this Act, which is basically just a step in the right direction: It certainly is not going to break the State of Maine.

I would suggest that the Members of this Senate today at least give due consideration to the victim of a crime, and not concern themselves that greatly with the \$50,000.00 price tag that is sitting on there. And with due reference and respect to the Honorable Senator from the County of Knox, Congress may or may not pass a Bill this year to compensate victims

of crime, but again, I wonder whether we should look towards the Federal Government to do for us, again.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I would join the good Senator from Androscoggin, Senator Mangan, in his request to vote against the Motion pending before the Senate.

I think the good Senator from Knox, Senator Collins, made some very fine arguments for the Bill. It is obvious that he referred to the last Session and that the Chief Executive vetoed that Bill because of the cost factor. I would like to at least see us keep the Bill alive and get it through both Houses and make a final determination on enactment when that day comes when we have to look at all monetary measures and, therefore, I would hope the Senate would vote against the Minority Report, accept the Bill and move it along.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

The pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

Will all those Senators in favor of the Motion of the Senator from Knox, Senator Collins, please rise in their places to be counted.

Will all those Senators opposed to the Motion of the Senator from Knox, Senator Collins, please rise in their places to be counted.

The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a roll call is ordered.

The Pending question before the Senate is the Motion by the Senator from Knox, Senator Collins, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Ought Not to Pass Report. A Nay vote will be opposed.

The Secretary will call the roll.

**ROLL CALL**

YEA — Chapman, Collins, D.; Collins, S.; Cummings, Greeley, Hewes, Huber, Jackson, Katz, Lovell, Pierce, Redmond, Snowe, Trotzky, Wyman.

NAY — Carpenter, Conley, Danton, Farley, Levine, Mangan, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pray, Speers, Usher, Sewall.

ABSENT — Curtis, Hichens, McNally.

15 Senators having voted in the affirmative, and 15 Senators in the negative, with 3 Senators' being absent, the Motion to Accept the Ought Not to Pass Report does not prevail.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought to Pass, as amended, Report of the Committee?

The Chair will order a Division.

Will all those Senators in favor of accepting the Majority Ought to Pass in New Draft Report of the Committee please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, reluctantly I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all



those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is acceptance of the Minority Ought to Pass in New Draft Report of the Committee.

A Yes vote will be in favor of accepting the Majority Ought to Pass. A Nay vote will be opposed.

The Secretary will call the roll.

**ROLL CALL**

YEA — Carpenter, Conley, Danton, Farley, Levine, Mangan, Martin, Merrill, Minkowsky, Morrell, O'Leary, Pray, Speers, Usher.

NAY — Chapman, Collins, D.; Collins, S.; Cummings, Greeley, Hewes, Huber, Jackson, Katz, Lovell, Pierce, Redmond, Snowe, Trozky, Wyman.

ABSENT — Curtis, Hichens, McNally.

14 Senators having voted in the affirmative, and 15 Senators in the negative, with 3 Senators being absent, the Motion to accept the Majority Ought to Pass Report does not prevail.

On Motion by Mr. Speers of Kennebec, Tabled for one legislative day, Pending First Reading.

**Divided Report**

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution to Provide for the Selection and Bonding of the Treasurer of State in Accordance with Statutory Provisions. (H. P. 595) (L. D. 721)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Aroostook  
MARTIN of Aroostook  
SNOWE of Androscoggin

Representatives:

VALENTINE of York  
DIAMOND of Windham  
BACHRACH of Brunswick  
CHURCHILL of Orland  
LOCKE of Sebec  
KANY of Waterville  
STUBBS of Hallowell  
SILSBY of Ellsworth  
MASTERTON of Cape Elizabeth

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representative:

CURRAN of South Portland

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

Majority Ought Not to Pass Report accepted, in concurrence.

**Divided Report**

The Majority of the Committee on State Government on, Bill, "An Act to Establish A Citizens' Service Center." (H. P. 597) (L. D. 723)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Aroostook  
MARTIN of Aroostook  
SNOWE of Androscoggin

Representatives:

VALENTINE of York  
SILSBY of Ellsworth  
BACHRACH of Brunswick  
CURRAN of So. Portland  
MASTERTON of Cape Elizabeth  
STUBBS of Hallowell  
CHURCHILL of Orland  
DIAMOND of Windham  
LOCKE of Sebec

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representative:

KANY of Waterville

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

Majority Ought Not to Pass Report accepted, in concurrence.

**Divided Report**

The Majority of the Committee on Veterans and Retirement on, Bill, "An Act Concerning the Retirement Law Relating to Certain Employees of the Department of Mental Health and Corrections." (H. P. 1019) (L. D. 1073)

Reported that the same Ought not to Pass.

Signed:

Senators:

COLLINS of Knox  
LOVELL of York  
O'LEARY of Oxford

Representatives:

THERIAULT of Rumford  
AUSTIN of Bingham  
BUNKER of Gouldsboro  
MacEACHERN of Lincoln  
CLARK of Freeport  
HICKEY of Augusta  
LOUGEE of Island Falls

The Majority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representatives:

LAFFIN of Westbrook  
NELSON of Roque Bluffs.

Comes from the House, Bill and Papers, Indefinitely Postponed.

Which Reports were Read.

On Motion by Mr. Speers of Kennebec, Tabled for one legislative day, Pending acceptance of either Committee Report.

**Senate**

The following Ought Not to Pass report shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act Relating to Maximum Benefits under the Employment Security Law." (S. P. 193) (L. D. 590)

**Leave to Withdraw**

Mr. Collins for the Committee on Judiciary on, Bill, "An Act to Eliminate the Requirement of the Secretary of State to Maintain a Copy of Murder Transcripts." (Emergency) (S. P. 109) (L. D. 238)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

**Ought to Pass**

Mr. McNally for the Committee on Labor on, Bill, "An Act Concerning Minimum Wage Law." (S. P. 250) (L. D. 777)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

**Ought to Pass — As Amended**

Mr. Collins for the Committee on Judiciary on, Bill, "An Act Concerning the Small Claims Laws." (S. P. 301) (L. D. 927)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-131).

Which Report was read and accepted and the Bill Read Once. Committee Amendment "A" was read and adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Mr. O'Leary for the Committee on Natural Resources on, Resolve, Authorizing the Ex-

change of Certain Public Reserved Lands with Brown Company. (S. P. 375) (L. D. 1390)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-130).

Which Report was Read and Accepted and the Resolve Read Once. Committee Amendment "A" was Read and Adopted.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I think at this time I should make a few comments. Often I have taken this floor to be critical of various department heads, more often than not. But I think today we should extend our best to one of our better and more capable department heads and I especially would like to commend Lee Schepps of Department of Public Lands.

I am the sponsor of this Resolve. This Resolve would allow the Bureau of Public Lands to Transact an exchange of lands with Brown Paper Company. As a part of the exchange, Brown Paper Company would return to the State of Maine approximately 15,000 acres of timber and grass rights. It is one of four exchanges by which a total of 33,000 acres would be returned to the State.

These exchanges have been negotiated on a value-for-value basis. The Bureau of Public Lands provided to the Committee a large amount of information on the details of these trades and I am quite satisfied that the State is receiving fair value. Not only that, but with the return of timber and grass rights, this represents a spectacular one-time opportunity for the State.

In the exchange with Brown Company, the State would be receiving some of the most significant and scenic recreational properties in western Maine, including miles of sand beaches on Richardson Lake, the entire Mahoosuc Mountain Range, an the historic and recreational properties along the Chain of Ponds. Some of the areas in this land exchange combine with areas in other land exchanges to form larger management parcels.

Other exchanges assemble parcels around Duck Lake in northern Hancock County and around Seboeis Lake in Penobscot County. These lovely lakes will be retained by the State and not developed. They will be major assets of the people of Maine, to be managed exclusively for public benefit. In addition, through these land exchanges the State will be able to assemble most of the Bigelow Preserve in a very short period of time.

These lands will be managed as multiple use forest lands. Timber harvesting will be conducted but emphasis will also be given to recreation, game management and other multiple use values.

I believe this exchange and the other exchanges are great events for the people of Maine. The Public Lots are our only remaining heritage from the public domain. They are a great trust. Through these land exchanges, they will be consolidated into a system of State-owned multiple use forest lands to be managed for the benefit of all of the people of this State and to be passed on to future generations.

I think we should extend to the companies involved in these trades our recognition for making this gesture of good will to the people of Maine by voluntarily giving over to the State thousands of acres of timber rights.

I would especially like to take this opportunity to commend the Bureau of Public Lands. This relatively new agency has negotiated these trades and is responsible for the management of the lands involved. They have done a great job and deserve the support and an acknowledgement of appreciation from this Legislature. The public reserved lands are a trust established in the Constitution of Maine. This trust is in good hands.

Resolve, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Require Certain Criminal Justice Agencies to make Permanent Records of All Apprehensions and Arrests." (S. P. 258) (L. D. 781)

Reported that the same Ought Not to Pass.  
Signed:

Senators:

COLLINS of Knox  
MANGAN of Androscoggin  
CURTIS of Penobscot

Representatives:

GAUTHIER of Sanford  
DEVOE of Orono  
HOBBINS of Saco  
TARBELL of Bangor  
HUGHES of Auburn  
NORRIS of Brewer  
BENNETT of Caribou  
BYERS of Newcastle  
SPENCER of Standish

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representative:

HENDERSON of Bangor

Which Reports were Read.

Majority Ought Not to Pass Report accepted.

Sent down for concurrence.

#### Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Limit Attorney's Fees under the Maine Tort Claims Act." (S. P. 268) (L. D. 826)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox  
MANGAN of Androscoggin  
CURTIS of Penobscot

Representatives:

TARBELL of Bangor  
SPENCER of Standish  
HOBBINS of Saco  
DEVOE of Orono  
BYERS of Newcastle  
BENNETT of Caribou  
HENDERSON of Bangor  
HUGHES of Auburn  
NORRIS of Brewer

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representative:

GAUTHIER of Sanford

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, I move we accept the Minority Ought to Pass Report, and I would like to speak to that particular Motion.

The PRESIDENT: The Senator has the floor.

Mr. MINKOWSKY: Mr. President and Members of the Senate, as you may well recall during the beginning of the Session, we were faced with the Maine Tort Claims Act, and I think you will recall that this was effective July 1, 1977 until February 1, 1979.

At that particular segment of time, we evaluated exactly what this would mean insofar as suits being brought against municipalities, and I felt at that particular segment of time that it could be misused by some attorneys and the idea at that particular time was also to see if we might regulate the fees of attorneys that

they charge their clients in bringing suits against municipalities.

I was quite disappointed when I went to the public hearing of the Judiciary Committee, only to find three members of the Committee present when this Bill was heard, the Chairman and two House Members. I do not feel at that particular time it really had a long, constructive debate, and I do not think the Members who signed this Majority Report really understood what the intent and purpose of this legislation was.

While we were discussing the previous piece of legislation entitled 'Compensation to Victims of Crime' a member of the Judiciary Committee, my very dear friend, who sets next to me, from Androscoggin County, Senator Mangan, summed it up very nicely in his statement that a victim is a pawn of an attorney. My evaluation of this particular Bill is that the citizens of the State of Maine who use attorneys at times also are pawns of attorneys.

The only opponent to the Bill was a member of the Maine Trial Lawyers Association, who is also a former seatmate of mine in the Maine Senate back in 1969, and his basic argument at that time was I did not present a specific example of attorneys misusing or not taking care of their clients properly. Well, I was not about to debate any particular example. I am only looking at the overall benefit, how it will serve the people of the State of Maine.

And the second argument was, we are now regulating attorneys' fees. I concur that this might be a very good idea if we got down to the point of starting to regulate some of these attorneys' fees.

As often happened in the State of Maine where I have heard and specific cases were brought to my attention where people maybe were very gullible in going to a certain attorney and being compelled, basically, to bring a suit against the municipality or against a firm, but the end result was very simply that these people were really not with it insofar as bringing a suit. But if, and the point was always stressed, pain and suffering to that individual, but some of the cases I have seen settled, it certainly was no pain and suffering on the part of the attorney who received the fee.

And the only intent in this particular Bill here was to regulate that portion of the Maine Tort Claims Act that would simply say that attorneys took a 15 per cent of any award or damage including cost which totaled \$50,000.00 or more, and 25 percent of any award or damage including cost which totalled under, \$50,000.00. And also, I might add, Mr. President and Members of the Senate, another factor which plays upon the emotions of the citizens of the State of Maine, is the fact that they get them geared up to go into Court, and they finally settle out of Court, but yet they get their full compensation.

And I feel pain and suffering is the cause behind this entire thing. The person who should be the recipient of the money should be the person who is actually suffering and not the beneficiary, which in this case is the lawyer.

I would ask for a division when this particular vote is taken.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Mangan.

Mr. MANGAN: Mr. President, I am sure that my intent on the Victim of Crimes Bill may have been a bit misinterpreted by my colleague from the County of Androscoggin, Senator Minkowsky.

It would appear to me that this Bill is a step in the wrong direction for a number of reasons. And the Senator from Androscoggin, Senator Minkowsky, was right, it would tend to regulate the fees that attorneys may receive for services performed. There are no other professions, to my knowledge, in which the Legislature in its

great wisdom has decided to limit fees. Even if we look at yesterday with agency stores, the fees that someone will receive for the selling of a product which is monopolized by the State of Maine is unwise to regulate.

The problem that I have with this Bill here is that municipalities have always been a very tough subject to sue. You go before a jury when you are trying to sue a municipality, and the jury is always comprised of many members of that municipality. They see their potential taxes going up. They feel very badly about the whole thing and many times the awards will be in the vicinity of a dollar.

Now under this proposed piece of legislation, if the award is a dollar, the attorney will get 25 cents, and this does not really cover filing fees, let alone service, let alone the research behind the case, let alone the overhead, and on many of these cases there are hundreds of hours that are put in to the case itself, costing thousands and thousands of dollars. So we look at the regulation of a profession at one point of view.

The other side of the coin comes into the philosophy that the quickest way to socialism or any other step is to start regulating free enterprise. And this is one of those problems, that regardless of the kind of quality of the individual that you are seeking to represent you, the amount that you shall pay that individual is going to be regulated by the State of Maine.

And it puts a ceiling on who can receive what for what type of a service. Now it would be most interesting, for example, if we had two individuals involved in an accident and one would be a municipal individual and one would be a non-municipal individual that the attorney could let the system float and charge what is properly due to him under the client who is not municipal and be regulated under the municipal part of it.

I just feel that the whole theory behind this is wrong. I think that the Bill itself, the Tort Claims Act has put down there a reasonable amount of compensation for attorneys' fees, and the Court has always looked very conservatively at the amount that the Court will consider reasonable. So I feel there are safeguards in the Tort Claims Act itself. I do not feel that anybody is being hurt. I think if you look at the area of pain and suffering there is a limitation as to the amount of money that can be sued for in the first place.

I would move that the Minority Ought to Pass Motion that is currently before the floor is defeated.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President and Ladies of the Senate: I am not anti-lawyer or anything else, but I look at L. D. 826 and I see what I feel to be fairly reasonable percentages and I would point out to the Senate that on an award of \$100,000.00 the attorney's compensation could be \$15,000.00; on an award of \$40,000.00, the attorney's compensation could be as high as \$10,000.00 or one-quarter and I stand here this morning after hearing the remarks of my colleague from Androscoggin, Senator Mangan, and I have great sympathy for all the attorneys who are receiving 25 cents per case.

I think we have opened up a whole new area. I think we all agree, we all recognize we have opened up a whole new area with the Maine Tort Claims Act which we passed earlier in the Session, and I think that some way of limiting attorneys' fees, putting a reasonable limit on them in the Statutes; is not an unreasonable thing to ask, and I would say to you that I do not feel that 15 percent of damages totaling \$15,000.00 or over is unreasonable; or 25 percent of damages under \$50,000.00 is unreasonable.

If we want to amend this Bill, we have to get it in a posture that we can amend it, and I would hope that we would accept the Minority Ought to



Pass Report of the Committee this morning and move on and if some of my brother attorneys, or rather the attorneys in this Chamber, feel that the limits are not reasonable, then they can amend it. But I do not feel that it is unreasonable. I think we are going to see some very high settlements in the near future when this Bill starts to take effect out there in the population, and I would disagree with my colleague from Androskoggin. I would say, granted, the juries are made up from people from the municipalities, but the juries are also made up of the peers of the poor aggrieved person who has been unjustly injured by a municipality, or by the State, and I think that when these things go into the Court, I think you are going to see some very healthy settlements.

I think if I went into Court with a \$100,000.00 claim, and an attorney came to me and said I will take your case for half. \$50,000.00 would sound pretty good, but I do not think that is a reasonable fee, \$50,000.00.

Thank you.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President, I rise just to speak on one minor point that was mentioned by the good Senator from Androskoggin, Senator Mangan. — the point that this seems to be to him to be creeping socialism.

I would like to rise today and say hello to all my fellow socialists, because yesterday, regardless of how we voted on the discount for State Agency Stores, we voted to limit the profits in that instance, and, therefore, according to Senator Mangan's logic, we are all socialists.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate, I fear to tread within the field of the judiciary, but on occasion I feel that someone has to get up and try to say a kind word about them.

I have stated on several occasions that at one time I made it sort of a hobby sitting around in Superior Courts around the State, particularly in Cumberland County, and watching the tort claims, and I always marvelled at many of the cases that I witnessed, and found that they were quite exciting and quite intriguing, and found it very difficult to leave the Court Room to go out to lunch, or whatever the case might be.

But I came to one conclusion after watching many cases, and there is an old saying that "When you get something for nothing, you get exactly what you pay for". I think this is the case in tort claims, and a lot of civil cases that people who do have injuries, personal injuries, and do bring on civil tort claims, generally go out and try to find the best representation that they can get in the Court. I think that they have to pay for that representation. They pay dearly, perhaps, in some cases.

But on the other hand, no one knows what the peers, what the jury is going to come back with, and they could very easily come back with a verdict that does not serve the individual, but the jury finds no negligence. The attorney then has done his work, and there is a tremendous amount of preparation that has been put into the case, sometimes months, sometimes years, but it goes down the tube. No one can guarantee what that judgment is going to be in damages. If the parties get together even when the jury has gone out, there has been some sort of an agreement reached between the parties, it is my understanding that under the Bar Fees that there is a reduction made because of the fact that the jury has not come back.

I would hope that the Senate would vote against the pending Motion. I know the good Senator from Androskoggin, Senator Minkowsky, has raised grave concerns, but, on the other hand, I think if we have issues to take, we should take issues with the Maine Bar As-

sociation, and I do not think it is right for us to be setting a statutory limit.

The PRESIDENT: The Chair recognizes the Senator from Androskoggin, Senator Mangan.

Mr. MANGAN: Mr. President, I think a couple of factors have to be considered here. First of all, most of the tort claims that are brought as a result of injuries are contingency cases. If you win I get my "cut". If you do not win, I do not get nothing — pardon the English.

The second factor that everybody has to consider is that not all plaintiffs that walk into a law office have got a good case. Surprisingly enough, there are those people who go through red lights and get wiped out by a City snowplow, and then want to sue the City. And an attorney may say, well, there may be a chance, but I doubt it, and the individual may press the case as much as he possibly can. He will say, well, I feel that you need an attorney, that you have a right to have your day in Court. I do not think you are going to win, but unfortunately I have to take it on as a contingency. And, therefore, the attorney may not win his case.

The other factor is this, for some reason or other certain Members of this Body feel that attorneys will win every case that they take before the Superior Court on a tort case. That is not quite true. There are not even settlements in some of these cases. As a matter of fact, I think the ratio, and I have not checked it out lately, but I think the ratio was that one out of three, or one out of four, cases where the plaintiff sues somebody actually wins. So what we are really saying here is that the lawyer has really lost his "cut" from the first three cases, and the fourth one just makes up for those hundreds and hundreds of hours that he has worked for nothing.

I think everybody is sitting here talking about the poor rich lawyer. I think that if they actually went into the majority of the attorneys in the State of Maine, they would find out that a lot of their annual income in most cases are not much over \$10,000.00, and some of them are way up high, and some are way less than that, but I do not think that this Bill is going to benefit anybody, let alone the plaintiff who wants to sue.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, one very small point, and I would beg of my friends in this Body who happen to be attorneys to correct me if I am wrong. As I read this Bill it says "for which an award of damages is made". Now I stand here and I really feel badly that we are trying to put a limit, a ceiling on the award of damages or the percentage that may go to attorneys. But as I read this Bill, if I have a case to bring before the Court and I am searching for an attorney to represent me, there is nothing to prevent me from saying, alright, Attorney So and So, I will pay you \$5,000.00 to take my case because I have a good case. If we do not win, you get \$5,000.00. Now there is nothing here that says the percentage of nothing would go to the attorney in case the attorney loses.

This is a point that I think needs to be clarified, and I would ask if I am incorrect, I would ask my attorney friends to correct me. But it says a "percentage of the damage awarded", so this would be in case the attorney happened to win the case. If the attorney lost the case, there is nothing in here to say the attorney receives nothing. I would expect that in most cases, and again I beg for correction, I would expect that in cases where the case is shaky, that the attorney would already have made provisions for a fee in case the claim is lost in Court.

The PRESIDENT: The Chair recognizes the Senator from Androskoggin, Senator Mangan.

Mr. MANGAN: Mr. President, in most tort cases in the State of Maine, if the case is taken

on a contingency which it is the most of the time, to provide a typical plaintiff with at least having the right to have counsel, a lawyer in the matter, the contingency provides that if they win something, they will get something, but if they do not, they do not.

A case in point is I have one this afternoon. — I thought I might have had it this morning, and the suit is for \$210.00. Now a contingency off the top of that would be approximately one-third, which comes out to approximately \$70.00. I have \$55.00 in expenses on the thing. Now if you figure I have got 12 hours into it right now, you want to average out how much I am getting an hour just for the privilege of having someone have legal representation in Court.

Mr. MERRILL: Mr. President, I would just like to pose a question through the Chair to anyone who may care to answer.

As I read the Bill it is a limitation on the attorney's fees that may be paid to both sides, and if I am correct in that, would that put a limit on how much time the Attorney General's office could spend in defending the case. There has been a lot of discussion of the plaintiff's responsibilities. Is it the will of this Senate that we shall tell the Attorney General that he can only spend so much money, or are not those fees under the definition of this Bill. If those are not fees under the definition of this Bill, are we saying to one side you can spend \$50,000.00 defending the case, and the other side, the side that does not have the information to start out with, you can only spend so much money in preparing the case. If that is so, why are we discriminating in favor of the defendant and not the plaintiff.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Androskoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, being a layman and not being fully versed as my very dear friend from Cumberland County, Senator Merrill, is, I would say that the Attorney General and his staff is paid for by the people of the State of Maine, and it is his duty not to look for additional compensation in defending an action brought against the State of Maine. I do not think it is relevant really to being in business for a profit, which an attorney is, versus the Attorney General working to defend all actions of the people of the State of Maine.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, If the operating definition is the one implied by the previous speaker, and that is additional compensation, then I understand the answer to mean that the Attorney General's office can spend \$50,000.00 worth of time preparing the case for the defense.

I would point out to the Senate that the Attorney General's office has available to him the services of the State. On the case of the lawyer who is acting as the solicitor for the City or Municipality, he has the facilities available to him, whatever they may be, to find out what happened if there is an accident. And that information has to be provided usually out of the attorney's fees from the side of the plaintiff.

It seems to me that we are imposing an unequal burden on both sides in their ability to prepare for a legal action.

The PRESIDENT: The Chair recognizes the Senator from Androskoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, it is my understanding that in the case of municipalities who have a legal counsel, that the lawyer, if he feels that the cost will exceed what the allocation was, he usually goes back to the Council or to the Finance Board and gets some additional appropriations. I am not too sure what the At-

torney General would do, but I would assume it would be a similar format.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Androscoggin, Senator Minkowsky, that the Senate accept the Minority Ought to Pass Report of the Committee.

A Division has been requested.

Will all those Senators in favor of the pending Motion to accept the Minority Ought to Pass Report, please rise in their places to be counted.

Will all those Senators opposed to the pending Motion to accept the Minority Ought to Pass Report, please rise in their places to be counted.

13 Senators having voted in the affirmative, and 14 Senators in the negative, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought Not to Pass Report Accepted.  
Sent down for concurrence.

#### Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Place the Office of Energy Resources in the State Planning Office." (S. P. 314) (L. D. 1034)

Reported that the same Ought Not to Pass.  
Signed:

Senators:

COLLINS of Aroostook  
SNOWE of Androscoggin  
MARTIN of Aroostook

Representatives:

VALENTINE of York  
BACHRACH of Brunswick  
KANY of Waterville  
LOCKE of Sebec  
DIAMOND of Windham  
SILSBY of Ellsworth  
CURRAN of South Portland  
MASTERTON of Cape Elizabeth

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Representatives:

CHURCHILL of Orland  
STUBBS of Hallowell

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, I move the Senate accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President and Members of the Senate: As a Member of the Energy Committee when this office was created, its potential down the road, it is good potential. I do not believe that it belongs anywhere else but as an office individually by itself.

It is a creation of the former Senator who sat in this seat, Senator Marcotte. I think there is a need for this office as we proceed in our energy problems, or in our conquest to solve our energy problems, and I believe that we ought to leave it just the way it is.

I would hope that you accept the Majority Report of the Committee on State Government. I congratulate the three Members of this Body for signing that.

On Motion of Mr. Redmond of Somerset,

Tabled for One Legislative Day, Pending the Motion of Mr. Collins of Aroostook that the Senate accept the Majority Ought Not to Pass Report.

#### Second Readers

The Committee on Bills in the Second Reading reported the following:

##### House

Bill, "An Act to Validate Proceedings Authorizing the Issuance of Bonds or Notes by Region 5 Vocational Region." (Emergency) (H. P. 1112) (L. D. 1365)

Bill, "An Act Relating to the Payment to Provide for Waste Disposal at Mt. Ararat High School." (Emergency) (H. P. 1484) (L. D. 1701)

Bill, "An Act to Increase Retirement Benefits for Teachers Who Taught Prior to July 1, 1942." (H. P. 1530) (L. D. 1756)

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

Bill, "An Act to Change the Sales Tax Basis on Fuel Oil from Price to Volume." (H. P. 784) (L. D. 936)

Which was Read a Second Time and Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

#### House — As Amended

Bill, "An Act to Repeal the Designation of Emergency Interim Successors to Legislators." (H. P. 463) (L. D. 568)

Bill, "An Act Relating to the Establishment of a Revolving Account for Local Educational Assessment." (Emergency) (H. P. 1027) (L. D. 1276)

Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, An Act to Establish a 12% Discount for State Agency Stores. (H. P. 828) (L. D. 1001)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate, I would just like to ask the Members of this Body to review in their own minds the many worthy needs, both within our Part I budget and outside of our budget, in terms of LD's which are before this Legislature.

We hope we can meet some of these needs without a tax increase. It has already been pointed out in this Body a number of times the long list of applicants for Agency Stores at the 8 percent discount. I would just like to remind the Senate of the motto which somebody introduced recently that "If it works, don't fix it".

I would move indefinite postponement of this Bill and all its accompanying papers.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Levine.

Mr. LEVINE: Mr. President and Members of the Senate, I am a little at a loss here as to exactly what the feeling or the philosophy of the Members of the Senate is. We have just, in our great wisdom in this Body, decided that we will not limit attorneys to 15 percent of a settlement over \$50,000.00, and 25 percent of the settlement under \$50,000.00, but we shall limit the small businessman, the little guy, in the percentage of profit he might make in a certain business, which is a State Agency liquor store, to a gross profit of 8 percent.

Therefore, I would rise to oppose the Motion of the good Senator from Cumberland, Senator Huber, in asking for the indefinite postponement of this Bill.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate, I was not going to say anything on this Bill today, because 12 percent is not an awful big profit. But, however, it is going to cost the State \$112,000.00 in loss. As Senator Danton says it is something we never got, but it is something we are going to get in the coming

year. So, as the good Senator from Cumberland, Senator Huber says, we cannot afford to lose this money.

We do have a dessert wine Bill coming in shortly that will give us a couple hundred thousand a year, that I am sure you folks will want to vote for, but we do not want to lose this \$112,000.00, so I will have to go along with the good Senator, because it will only go on the appropriations Table anyway and probably be defeated at the end of the Session, so we might as well defeat it now.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President, I request a Division.

The PRESIDENT: A Division has been Requested.

Will all those Senators in favor of the Motion that this Bill, L. D. 1001, be indefinitely postponed, please rise in their places to be counted.

Will all those Senators opposed to the Motion that L. D. 1001 be indefinitely postponed, please rise in their places to be counted.

The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President, I request the vote be taken by the yeas and nays.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Members of the Senate, just in rebuttal to the comments of the good Senator from Kennebec, Senator Levine, I do not compare this to the lawyer's fees situation.

Four years ago we did not have Agency Stores. They are something new, and the intent was, I thought, to keep the State in control of liquor, bringing perhaps \$24 million into the State coffers, but in areas where State liquor stores are not profitable, Agency stores were to be installed. It was not the intent a few years ago when we passed the Agency Store Bill that there be Agency Stores all over the State in metropolitan-urban areas. The intent was only perhaps in Greenville or some area that could not be serviced easily by a State liquor store.

Now I understand that people are hammering at the doors to have the Agency Stores at 8 percent, and to me it is ridiculous when you can buy something say for .08 or \$8.00, that you pay .12 or \$12.00 for it. I do not think it is good sense for the State of Maine to be paying 50 percent more than it has to pay for something, and I hope that you will vote along with the Motion of the gentleman from Cumberland, Senator Huber, to indefinitely postpone this Bill.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, I have to commend the good Senator from Cumberland, Senator Hewes. I think he just stated why it should be 12 percent.

You take these small communities where the Agency stores are. — I would like maybe to have Mr. Hewes move his law office into one of those small communities and see how much he makes. This is one reason I feel that it should be raised.

It was the intent of the Legislature at that time to institute 30 stores, and in remote areas where there were no liquor stores or liquor available without travelling a great distance. It was also felt at that time that if the liquor store was not grossing 15 percent, that it should be closed.

So I think if you use the same rule of thumb, I think the good Senators in this Body should

refuse the Motion of Senator Huber and accept the report that we accepted yesterday.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Ladies of the Senate: I listened very closely yesterday to the debate, and also today, and it is amazing when you start to analyze it, that State Government was really designed to serve the people of the State of Maine and not to serve itself. Apparently when I asked the question about what the mark-up was, it is 75 percent on a bottle of booze here in the State of Maine, and it is very obvious to me now why people from the State of Maine are going to New Hampshire to get their booze.

It just appears to me that it is a monopolistic operation, and it is not in the best interest of the people of the State of Maine. But I think they have seen the light when they designed the Agency Stores to be a better servant to the people of the State. I think the people who are running these Agency Stores in a very ethical manner, as was brought out by the good Senator from York, Senator Danton, that they are not getting a 12 percent profit. They have overhead just like the State stores have, and I doubt very much if they make as much as the Chairman of the Liquor Control Committee makes as a pharmacist.

I would hope that the Motion to indefinitely postpone this Legislation does not prevail.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, just one answer to the good Senator from Androscoggin, Senator Minkowsky.

In the pharmacy business I sold some products that I made no profit on just to get the people in my drug store. One was cigarettes — for example. I sold them at cost, and newspapers. And that brought the people into the store who shopped around for other things, so, consequently, I even carried money orders, which I made little or nothing on a money order. It was just a nuisance.

This is the same way that these stores are. The Liquor Commission granted these Stores the privilege to sell liquor, but it was a sideline. They did not expect them to make any money on it. It was to bring the people into the stores.

Now it is unfortunate that some of the stores thought they was going to clean up, and all they did was put in hard liquor, a few potato chips, and things of that sort, and thought they was going to make a lot of money. They are not going to. Those stores had better give up, and the Liquor Commission can put on some other stores.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE: Mr. President, I do not like to rise this morning and dispute the good Senator from York, Senator Lovell, but the testimony at the hearing was quite plain in that the so-called loss-leader concept does not work with liquor, and has not worked, and if his contention is that these stores are selling liquor at the prices and, therefore, taking a loss in order to increase their business, that in fact has not come about. I think we should keep that in mind, also. It has not been a loss-leader. It has not brought extra business into the store, and, therefore, his argument, I believe, is moot.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I was going to stay in my seat, and maybe I should have, but when this Agency Store business came up years ago, we wisely, in my estimation, kept killing it until last Session it did get passed with the limit on the number of Agency Stores. It was a foot in the door to do away with our monopoly system, and maybe some of the Senators feel that it is a good way to get away from a monopoly system,

and that we should, but I remind them that the State of New Hampshire is making money on the sale of their liquor, and they are a monopoly state. You cannot buy hard liquor in any grocery store in the State of New Hampshire. You have to get it all through your State liquor stores, and I think that is where it belongs. If these people in the State Agency Stores cannot make all the profit they thought they were going to make, let it go back to the liquor store, and I think we would be much better off.

The PRESIDENT: A Roll Call has been ordered.

The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Huber, that L. D. 1001 and all its accompanying papers be indefinitely postponed.

A Yes vote will be in favor of indefinite postponement. A Nay vote will be opposed.

Senator Martin of Aroostook has been excused because of the appearance of a conflict of interest.

The Secretary will call the Roll.

#### ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Cummings, Greeley, Hewes, Hichens, Huber, Katz, Lovell, O'Leary, Pierce, Snowe, Speers, Trotzky, Wyman.

NAY — Carpenter, Conley, Curtis, Danton, Farley, Jackson, Levine, Mangan, Merrill, Minkowsky, Morrell, Pray, Redmond, Usher.

ABSENT — McNally.

16 Senators having voted in the affirmative, and 14 Senators in the negative, with one Senator being absent, and with one Senator being excused, the Motion to indefinitely postpone does prevail.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President, I move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now moves the Senate reconsider its action whereby this Bill was indefinitely postponed.

A viva voce vote being had, the Motion to reconsider does not prevail.

#### Senate

RESOLUTION, Proposing an Amendment to the Constitution to Repeal Provisions Relating to the Poll Tax and to Payment in Lieu of Military Duty. (S. P. 387) (L. D. 1300)

Which was Read a Second Time and Passed To Be Engrossed.

Sent down for concurrence.

#### Senate - As Amended

Bill, An Act to Allocate Money from the Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1978 and June 30, 1979. (Emergency) (S. P. 106) (L. D. 235)

Which was Read a Second Time and Passed to be engrossed, as amended.

Sent down for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, A parliamentary inquiry.

The PRESIDENT: The Senator may state his inquiry.

Mr. CONLEY: Mr. President, I would ask of the Chair if it is permissible to take from the Table an item that was tabled earlier today at this time.

The PRESIDENT: The Chair would answer in the affirmative.

Mr. CONLEY: I would so move, Mr. President, that we take Bill, "An Act Concerning the Crime of Prostitution. (H. P. 629) (L. D. 770) from the table.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves the Senate take from the Table L. D. 770, which was

tabled earlier in today's Session pending the Motion of Mr. Lovell of York that the Senate adhere. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I will make it very brief. The Motion pending before the Senate is the Motion to Adhere. I hope that the Senate votes against that Motion. I think the Bill has been debated probably more than it should have been debated and I would ask for a Roll Call to be taken on the Motion.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, just very briefly, Ladies and Gentlemen of the Senate, I have considerable correspondence on this, one as far, a clipping from a New Jersey paper stating that I was for prostitution in Maine, and I think that the Press gets the wrong impression many, many times.

I have talked with Members of both Bodies from every city and every large town in the State of Maine, and they say that there is no problem with prostitution in their areas. It is only in one area. Now they do not say that there is not some probably sex, but it is not charged so it is not prostitution. But, however, Portland we do have a problem in there, but I understand from the City Manager, from the way he has spoken, and I also understand from the Chief of Police that they have it well in hand.

I have a letter here written me from a Bangor attorney, who is a Member of the Legislature, he says, 'A Bill like this which deals with customers of prostitution may create considerable problems. If I remember correctly, Illinois had an unusual law against prostitution making it at least a misdemeanor. Then the State had another law making it a criminal offense to patronize a prostitute. So if an enterprising District Attorney caused the arrest to a woman who was working for the syndicate, the men involved could take the Fifth Amendment and would not be required to testify, so the state would have no case, so there is no percentage!

I urge you to vote against the Motion to recede and concur.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, this item has been debated a great deal in this Body and in the Press. Matter of fact. I drew the Senate's attention yesterday to a letter to the editor in my own paper, the Portland Press Herald, in which it complimented me on a brief moment of common sense in regard to the last debate.

My problem with the letter is I could not figure out whether the brief moment of common sense was that it was brief to the Senate that it was common sense, or it was unusual to myself that I spoke with common sense. I will assume the former.

I think that we had a chance in the Senate with this Bill, if we wanted to, to eliminate the criminal penalties completely from the crime of prostitution, and if that was the wish of the Legislature, that would have been a consistent act, at least. But I think that if all the reasons stated here previously, if it is going to be a crime, that it ought to be a crime for both of the participants. I actually can see no compelling logic whatsoever for having it be a crime for one party and not the other.

I would urge this Senate to vote against the Motion to adhere and then to recede and concur with the House.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Hewes.

Mr. HEWES: Mr. President and Ladies of the Senate: I would move that the Senate recede and concur with the House and speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. HEWES: I submit that this Bill is not an economic Bill at all, it is L. D. 770, which in essence provides that a person is guilty of engaging in prostitution if he engages in it, or if he gives, offers or promises a pecuniary benefit to another person in return for the other person or a third person engaging in or agreeing to engage in sexual intercourse or a sexual act. This would apply to pimping, this would apply to the male or the person paying for the services.

This is not an economic matter that is going to affect any city or any area of the State or our resort industry, and I think we are off on the wrong tangent when thinking about that. There should be equality between the sexes and what is sauce for the goose is sauce for the gander. I certainly hope that you do vote for this Bill, to recede and concur, which I believe is the same as enactment, to recede and concur with the House which did enact this.

And as for the Police trapping people, I could mention many many policemen individually, the State Troopers or City of Portland police, or South Portland, or Cape Elizabeth, or policemen and deputy Sheriffs I am familiar with and they are in the business to try to maintain law and order and not to try to trap citizens. I feel this is a very good Bill, and I hope you vote for its passage.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I request the yeas and nays be taken on the Motion to recede and concur.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I want to say that I think the Portland paper might also have observed about the good Senator from Cumberland, Senator Merrill, that he voted with a great deal of common sense in the 107th Legislature, both in the Judiciary Committee and on the floor of the Senate, with respect to most of the provisions in the Criminal Code.

The good Senator was concerned a couple of weeks ago and in the Press this week I noticed that another member of the Legislature is concerned about the position of children 14 and 15 years old. I want to point out to the Senate that we have two other laws, part of the Criminal Code that protect these children, both of which provide penalties more severe than those that are provided for prostitution.

The first one is in Section 254 and is called, "Sexual Abuse of Minors" and provides that a person is guilty if he engages in sexual intercourse or a sexual act with any person not his spouse who has attained his 14th birthday but has not attained his 16th birthday.

The other provision is Section 554, "Endangering the Welfare of a Child." It says that a person is guilty of endangering the welfare of a child if he knowingly permits a child under the age of 16 to enter or to remain in a house of prostitution. So I would submit that those particular arguments are not pertinent to the debate.

I share the same concern that these people have for these children and feel that we have protected them in other measures of the Code far better than we could do by changing the present law.

The good Senator from Cumberland has suggested, I think by implication, that a wiser route to go might be to entirely abandon this particular social problem as a criminal problem. Many countries have reached that conclusion some time ago, and I would predict that that will be the eventual conclusion in this State and in most of the states in this country.

One thing that we should keep in mind is that the criminal law is not the solution to all of our social problems. Society has been proving this

for hundreds and hundreds of years I think it is actually true that prostitution in the State of Maine today is much, much less than it was 100 years ago, 50 years ago, 30 years ago. In the small city where I reside, the incidence of prostitution has dropped very remarkably since the days of World War II. This is not because of activity of the Criminal Law. This is because of social trends.

We must remember that there is another factor in social ordering. Some of us call it morality. If we try to put all the burden on the Criminal Law, and forget about morality as a social force, we are going to be in trouble, because morality is a social force, maybe much more important than anything the Criminal Law can do, and the philosophy of the Criminal Code, which is here being attacked, was that the Criminal Law should deal with those problems that are most urgent and most important in our social ordering.

We have finite resources. We cannot spend enough money and build enough jails and have enough Judges and Courts to cover all of the offenses that society perceives. So in the Criminal Code we try to differentiate between the more serious problems and the less serious problems, and whether we have done that successfully remains to be seen. We have only had the Criminal Code in force for one year. It is too early perhaps to really measure its effectiveness or its effect in social ordering.

I would say that we ought to take a broad view of this problem, not simply decide on the basis of some of the smaller, sometimes half-humorous suggestions that we have heard. We ought to try to take a broader view of the social problems and rely on morality as a force to try to regulate some of these problems.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Mr. MARTIN: Mr. President and Ladies of the Senate: I want the record to show that I will continue to oppose this Bill, simply because I do not want Portland's problem of prostitution to infiltrate the rest of the State of Maine and northern Aroostook County.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Ladies of the Senate: It is very seldom that I agree with the editorial staff of the Portsmouth Herald, which is my local paper, and I have been the butt of some of their antagonism from time to time, but there are occasions when they do have a little common sense in their editorials, and I would like to share the editorial in last Thursday's May 5th edition of the Portsmouth Herald with you:

One never knows in this life what each day will bring in the way of the learning experience.

For example, for years we've always thought of Portland as an attractive, late colonial town, where the sidewalks are rolled up about 9 p.m. each evening, and such sin as exists is mostly in the minds of the octogenarians who run the place.

And that just shows how wrong you can be, and how easy it is to misjudge a city.

Thanks to the Maine Legislature, we've discovered that Portland is really a fun-loving, swinging community where the casual visitor can get action, just as though he was walking in New York's Times Square.

At least that's the connotation the Maine Senate left when it killed a bill that would have subjected the customers of prostitutes to arrest.

State Sen. Ralph Lovell of Sanford explained to his colleagues that "if this bill passes, the convention business in Portland would be hurt. People are only human. These conventions won't come to Portland, except the old age convention."

Now that's really letting the cat out of the bag. As we interpret the senator's remarks,

conventions in Portland have only one purpose and that's for a male visitor to enjoy a fast round with a high-stepper.

I our innocence we had always thought conventions were for the purpose of enlightening and broadening (no pun intended) the convention visitor in his field of endeavor.

Anyway the Maine Senate agreed that those who pay aren't as guilty as those who accept the money.

Can you imagine Honest John Applesed from Aroostook getting ready to go to a convention in Portland when his wife reads in the Bangor Daily News that ladies of the night flourish in the Forest City?

How many miles is he going to get down the road — by himself?

Those Mainers have long been noted for their taciturnity — and now we know they have much to be taciturn about. Still waters run deep.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Members of the Senate, I have had no input on this legislation since its inception, but I share the concerns of the remarks by Senator Conley regarding this problem, not only his community but various other areas in the State of Maine.

But after listening very attentively to Senator Lovell's remarks and his defense against the male's weakness and they should not be held liable, and especially his remarks in letter form from an attorney who advocates taking the Fifth Amendment to get out of this particular dilemma, I would classify this as nothing more than the male chauvanistic pig's act.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate, in brief response to the remarks of Senator from Knox, Senator Collins, as I pointed out in the debate that was held on April 26th which has been alluded to by him, we have taken great steps to protect 16, 17, 18 and 19 year olds. The Statutes that he refers to, as he pointed out, deal with girls that are younger than that and I think that it is common knowledge that many, many young people, young girls are engaging in prostitution and if you look at the people being prosecuted presently under our laws, those are the people we are talking about.

So I do think there is an element here, of at least whether or not we are going to treat the most-time adult people who are paying for this service at least the same way we are going to treat the minors who are being victimized by this practice.

I think there is a great deal of logic in what the Senator from Knox, Senator Collins, says about what we might ultimately do as far as the crime of prostitution is concerned, and I think that we do have to rely more on the general morals of society to deal with some of these so-called victimless crimes than we have in the past, and I think we have overly relied on the criminal law.

But I just relate to you an experience I have had over the past couple of weeks with this Bill. I have been speaking to several groups and many times adult education classes, and these are made up of people of different ages and there is usually 40 or 50 in the room, and I have asked them several questions that we have been dealing with here in the Legislature just to get their point of view. And almost every time when the question is put about this Bill, there is



almost a unanimous feeling on the part of these people that if it is going to be a crime for the person who is receiving the money, it ought to be a crime for the person who is paying.

I have not heard any logic whatsoever that is compelling to me why that should not be the case. And we had an opportunity with this Bill, if that was the intent of some Members present, to decriminalize the act of prostitution. We did not take that opportunity and nobody offered that Amendment. So what we really have here is a question I think of equal protection.

I would urge the Senate to reverse its position to recede and concur. This is a serious problem. It is a serious problem having to do with whether or not our Statutes are going to be written so as to deal equally with people who stand in unequal stations in life, and I think that they should. I think that is the promise of our judicial system, and there is nothing less at stake here in this vote.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Ladies of the Senate: Just briefly, this is definitely a Portland Bill and can be handled by the City of Portland. They have stated right in today's paper that they are going to hire five policewomen and put them in plain clothes to catch the men on the street who may be approached by these policewomen. And that is definitely entrapment.

We do not have this problem anywhere else in Maine. We do not have any prostitution in Sanford. This is a Portland Bill and let Portland take care of their own.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Ladies of the Senate: As one who lives and spends most of his time in the City of Portland, I do not feel threatened by the prospect of people who are there ready to catch people who are engaging in what is a crime and I do not know why other Members of the Senate feel so threatened by it.

I think it is ridiculous to maintain in this Senate that prostitution exists only in the City of Portland. I just do not know what foundation there is for it and I think it is a pretty naive point of view to maintain.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Ladies of the Senate: I would like to carry the philosophy of the Senator from Cumberland, Senator Merrill, a little bit further and ask him if he would support that philosophy in other crimes, such as crimes of drugs, an individual who purchases drugs is breaking the law and so is the individual who is selling it. But we, through our wisdom, have decided that the individual who sells it for a profit and makes money is committing a more severe crime. If his philosophy is true that both individuals are breaking the law and should be treated equally and punished equally, then would he support a measure such as that?

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Ladies of the Senate: I would point out to the previous speaker and to my other Senators that the attitudes of the criminal law as enacted in the Code is that the people who are the true profit-makers from drug traffic are treated much more harshly than the people who are the victims. All we are talking about here is equality.

The PRESIDENT: The pending question before the Senate is the Motion by the Senator from Cumberland, Senator Hewes, that the Senate recede and concur with the House.

A Yes vote will be in favor of the Motion to recede and concur. A Nay vote will be opposed. The Secretary will call the roll.

YEA — Carpenter, Conley, Cummings, Danton, Farley, Greeley, Hewes, Hichens, Huber, Levine, Merrill, Minkowsky, Snowe, Speers, Wyman.

NAY — Chapman, Collins, D.; Collins, S.; Curtis, Jackson, Katz, Lovell, Mangan, Martin, Morrell, O'Leary, Pierce, Pray, Redmond, Trotzky, Usher.

ABSENT — McNally.

15 Senators having voted in the affirmative, and 16 Senators in the negative, with one Senator being absent, the Motion to recede and concur does not prevail.

The Senate voted to adhere.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I move reconsideration.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves the Senate reconsider its action whereby it voted to adhere.

A viva voce vote being had,

The Motion to reconsider does not prevail.

#### Enactors

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

"An Act Pertaining to Employment Security Tax Liens." (H. P. 378) (L. D. 467)

"An Act Pertaining to Birth Records." (H. P. 52) (L. D. 73)

"An Act Concerning Damages in Wrongful Death Actions." (H. P. 572) (L. D. 696)

"An Act to Require Red Reflectors on Certain Long Logs Hauled at Night." (H. P. 601) (L. D. 726)

"An Act to Grant Variances to Single Family Home Owners under the Water Pollution Abatement Program." (H. P. 528) (L. D. 645)

"An Act Concerning Hunting and Fishing License Fees for Foreign Exchange Students." (H. P. 627) (L. D. 768)

"An Act Relating to Meeting to Reconsider Vote of a Prior Education District Meeting." (H. P. 906) (L. D. 1105)

"An Act to Change the License Status of Maine Resident Military Optometrists." (H. P. 967) (L. D. 1164)

"An Act Authorizing Intermittent Service of Sentences of Confinement." (H. P. 1080) (L. D. 1304)

"An Act Concerning Fees of Board of Examiners of Psychologists." (H. P. 609) (L. D. 746)

"An Act Repealing the Bay Point Village Corporation." (H. P. 494) (L. D. 613)

"An Act to Permit the Use of Salmon Eggs for Fishing Bait." (H. P. 462) (L. D. 567)

"An Act Relating to Meals Provided for Employees of the Department of Mental Health and Corrections." (H. P. 428) (L. D. 536)

Which were Passed to be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

"An Act Relating to the Payment of Registration Fees for Motor Trucks and Truck Tractors." (H. P. 369) (L. D. 460)

On Motion of Mr. Greeley of Waldo,  
Placed on Special Highways Appropriations Table

Pending enactment.

An Act to Establish More Convenient Hours to Permit Easier Access to Small Claims Court. (H. P. 431) (L. D. 538)

An Act Relating to Employee Workmen's Compensation Law. (S. P. 94) (L. D. 218)

On Motion by Mr. Huber of Cumberland,  
Placed on the Special Appropriations Table

Pending Enactment.

#### Emergency

An Act Relating to Motor Vehicle Registrations of Handicapped Persons. (H. P. 735) (L. D. 834)

#### Emergency

An Act to Resolve Certain Conflicts between the Statutes and the Maine Rules of Evidence. (S. P. 478) (L. D. 1719)

These being emergency measures and having received the affirmative votes of 26 members of the Senate were Passed To Be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

#### Emergency

An Act to Make Allocations from the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1978 and June 30, 1979. (H. P. 266) (L. D. 334)

On Motion of Mr. Conley of Cumberland,  
Tabled Until Later in Today's Session,  
Pending enactment.

#### Emergency

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1977. (H. P. 1483) (L. D. 1699)

This being an emergency measure and having received the affirmative votes of 27 members of the Senate, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Orders of the Day

The President laid before the Senate:  
Joint Order — Relative to Agriculture Committee studying the problems of enforcement of the dog licensing and leash laws. (S. P. 492)

Tabled — May 9, 1977 by Senator Hichens of York.

Pending — Passage.

The PRESIDENT: The Chair recognizes the Senator from York Senator Hichens.

Mr. HICHENS: Mr. President, having presented another order previously in today's Session, which corrects this one, I now move that this Order be indefinitely postponed.

On Motion of Mr. Hichens of York,  
Indefinitely postponed.

The President laid before the Senate:  
Bill, "An Act to Establish an Environmental Coordination Procedure." (H. P. 386) (L. D. 476)

Tabled — May 9, 1977 by Senator Trotzky of Penobscot

Pending — Passage to be Engrossed

Bill as amended, Passed to be Engrossed in concurrence.

The President laid before the Senate:  
Bill, "An Act Prohibiting the Sale of Certain Aerosol Sprays after January 1, 1979." (H. P. 290) (L. D. 371)

Tabled — May 10, 1977 by Senator Trotzky of Penobscot

Pending — Enactment

Which was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate:  
Bill, "An Act Relating to Location of State Liquor Stores." (H. P. 1123) (L. D. 1341)

Tabled — May 10, 1977 by Senator Pierce of Kennebec

Pending — Enactment

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Ladies of the Senate: I am not going to make any Motion on this Bill today. I have a feeling that if we do enact this piece of Legislation, which I feel is bad Legislation, we will see it again.

This was a Divided Report. A Bill identical to it was killed in the last Session, and I just want

to point out to you why I think it is bad Legislation.

This would take the power that the Liquor Commission presently has to close the Liquor Store if they see fit away from them, and it takes it from the Commission and puts it in the hands of the Legislature with the passage of this Law.

I guess some of the problems with this are some of the situations that I might describe for you. Many of the stores around the State are rented. As these renewals come up, the Commission has the threat over the landlord presently of either opening an Agency Store or doing something else, and they have found that many landlords are planning to double, triple and in some instances quadruple rents. If we pass this Legislation, it is going to tie the hands of the Commission, and those landlords are sure going to know that. And when those renewals come up, if it is in a small town where there are not many other buildings available, certainly the Commission is in no position where they can build any new buildings, there is no other place to go, they will not be able to close the store, they will not be able to do anything, they are going to have to pay the rent to the landlord.

I think it is bad Legislation, and I just did want to bring it to the attention of the Senate.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Members of the Senate, at the present time there are 77 liquor stores in the State of Maine, and this Bill simply says that they can close a store unless they make more than 15 percent net profit. Now 15 percent net profit is a pretty good profit.

So, consequently, I am sure the good Senator from York, Senator Hichens, does not want to see this spread around in all the different stores if the State sees fit to close down ten or a dozen liquor stores, and then just put it out in grocery stores. And, on the other hand, when you stop and think of it, they are only allowed to open 30 extra stores at the present time, grocery store type liquor, and they already have, I believe, 29, so they can only open one more.

I believe this should receive passage.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate, if I may just make one final comment on this Bill. I would point out to you that it is not 15 percent net profit. The Bill states that "unless the net operating costs of an existing State store exceed 15 percent of its gross revenue" — it has nothing to do with its net profit of 15 percent, and, as a matter of fact, none of the State stores presently do exceed that.

What it means, not only in the situation I told you before, but if a State store gets down to where it is making .05 percent and probably is not economically feasible to keep it open, and in the number of stores that they closed, the Liquor Commission's present feelings now are that they probably are much at rock bottom, and they would not be closing more than one or two, and I suppose we all feel protective of our own, anyway, but it does really take, I think, a very important tool away from them.

The PRESIDENT: Is the Senate ready for the question. The pending question before the Senate is enactment of L. D. 1341.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Passage of this Bill to be enacted, please rise in their places to be counted.

Will all those Senators opposed to the Passage of this Bill to be enacted, please rise in their places to be counted.

14 Senators having voted in the affirmative, and 13 Senators in the negative, the Bill is passed to be enacted.

The Bill having been signed by the President, was by the Secretary presented to the Governor for his approval.

The President laid before the Senate:

Bill, "An Act to Dissolve Vocational Region 9 and to Establish a Vocational Center to Serve Northern Oxford County." (Emergency) (H. P. 1113) (L. D. 1372)

Tabled — May 10, 1977 by Senator Katz of Kennebec

Pending — Motion of Senator O'Leary of Oxford to Indefinitely Postpone Committee Amendment "A" (H-273).

The PRESIDENT: The Chair recognizes the Senator from York, Senator O'Leary.

Mr. O'LEARY: Mr. President, I ask leave of the Senate to withdraw my Motion to indefinitely postpone Committee Amendment "A".

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now requests leave of the Senate to withdraw his Motion to indefinitely postpone Committee Amendment "A". Is this the please of the Senate to grant this leave? It is a vote.

Committee Amendment "A" Adopted in concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate:

"An Act to Make Allocations from the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (H. P. 266) (L. D. 334) which was tabled earlier in today's Session by the Senator from Cumberland, Senator Conley, pending enactment.

This being an emergency measure and having received the affirmative vote of 27 Members of the Senate, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

(Off Record Remarks)

On Motion of Mr. Speers of Kennebec, the Senate voted to take from the table

Bill, "An Act to Allow Water Utility Rates Under Bond." (S. P. 79) (L. D. 187)

Tabled — March 22, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, I present Senate Amendment "A" (S-126) and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, now presents Senate Amendment "A" (S-126) to LD 187 and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" (S-126) Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I wonder if I might request through the Chair that the Senator from Penobscot would give us a brief explanation.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair.

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, this is to correct a typographical error where one paragraph was going to be named the same as an already existing paragraph. It is just a change in numbers.

Senate Amendment "A" adopted.

On Motion of Mr. Speers of Kennebec, tabled pending Passage to be Engrossed.

On motion of Mr. Speers of Kennebec, the Senate voted to take from the table:

Joint Order — Relative to Performance Audit Committee studying Current Training Program at Maine Criminal Justice Academy. (S. P. 458)

Tabled — April 19, 1977 by Senator Speers of Kennebec

Pending — Passage

On Motion of Mr. Wyman of Washington, indefinitely postponed.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned until 9:30 tomorrow morning.